This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

Stanford University Libraries
3 6105 127 793 805

REPORTS OF COMMITTEES

OF THE

SENATE OF THE UNITED STATES

FOR THE

FIRST AND SECOND SESSIONS OF THE FORTY-SIXTH CONGRESS,

1879-'80.

IN EIGHT VOLUMES.

Volume 1 contains Nos. 1 to 9, 1st session, and Nos. 10 to 340, 2d session, except Nos. 277 and 303, parts 1 and 2.
Volume 2 contains Nos. 277 and 303, parts 1 and 2.
Volume 3 contains Nos. 341 to 487, except No. 388.
Volume 4 contains No. 388.
Volume 5 contains Nos. 488 to 571.
Volume 6 contains Nos. 572 to 670.
Volume 7 contains Nos. 671 to 725, and 693, part 1.
Volume 8 contains No. 693, parts 2 and 3.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1880.

LIBRARY
OF THE
LELAND STANFORD JUNIOR
UNIVERSITY.

A 2655

INDEX

TO THE

REPORTS OF COMMITTEES

OF THE

SENATE OF THE UNITED STATES

FOR THE

FIRST AND SECOND SESSIONS OF THE FORTY-SIXTH CONGRESS.

Subject.	Vol.	No.
A.		
Aaron, James. On the bill (H. R. 2041) granting a pension to	5	490
Abbott, Charles W. On the bill (S. 533) for the relief of	1	215
Adams, William L. On the bill (S. 500) for the relief of	1	306
Adams, John et al. On the bill (S. 89) for the relief of	1	331
Aiken, Nathaniel. On the bill (S. 260) granting a pension to	1	21
Albemarle and Chesapeake Company. On the bill (S. 626) for the relief of	3	472
Alderman, Charlotte T. On the petition of. (To accompany bill S. 1231)	1	220
Allen, Lewis D. On the bill (S. 1278) for the relief of	3	425
Allison, Mary. On the bill (S. 1143) granting a pension to	3	356
Alexander, J. H. On the bill (S. 1257) for the relief of	3	473
Alexander, Sarah A. On the petition of	5	547
Ambrester, Mary E. On the petition of. (To accompany bill S. 1810)	7	692
Anderson, A. L. On the bill (S. 277) granting a pension to	1	26
Anderson, W. H. H. On the bill (S. 1465) granting a pension to	3	479
Anderson, Levi. On the petition of. (To accompany bill S. 1662)	5	514
Annie Johnson. On the bill (S. 1723) authorizing the Secretary of the Treasury to issue an American register to the bark	5	576
Appel, Daniel M. On the bill (S. 1075) for the relief of	1	271
Appropriations known as permanent and indefinite. (To accompany bill S. 1424.) Relative to the	1	334
Arid and waste land. On the bill (S. 768) relating to	1	250
Army. On the bill (S. 1488) to provide for promotions in	5	561
Army, non-commissioned officers of. On resolution (to accompany bill 1331) placing on retired list	1	283
Army. On the bill (S. 1614) to regulate the promotion of the officers of the	6	652
Armstrong, Henry A. On the bill (S. 139)	1	66
Arctic Seas. On the bill (H. R. 3534) to authorize and equip an expedition to	5	512
Ashby, Eliza K. On the bill (H. R. 591) granting a pension to	7	722
Astoria and Winnemucca Railway Company. On the bill (S. 938) authorizing it to construct bridges across Young's River, &c	3	486
Aults, Elizabeth. On the bill (H. R. 2553) granting a pension to	5	542
Anthony, Thomas J. On the bill (S. 340) granting a pension to	3	444
Ayres, Joseph G. On the bill (S. 867) for the relief of	5	508

Subject.	Vol.	No.
B.		
Babb, Benjamin. On the bill (S. 1735) for the relief of	7	711
Bacon, James M. On the bill (S. 758) for the relief of	5	524
Baird, Richardson K. On the bill (H. R. 4759) granting an increase of pension to	5	503
Baker, J. H. On the bill (S. 781) for the relief of	3	398
Baker, Samuel. On the bill (H. R. 5542) for the relief of	6	628
Baldwin, Herman. On the bill (H. R. 3861) granting a pension to	5	566
Bampton, Benjamin C. On the bill (S. 542) for the relief of	5	519
Barkley, R. W. On the bill (H. R. 4842) to reinstate in the Naval Academy, &c	6	595
Barnes, Ann. On the petition of	3	352
Barr, James A. On the bill (S. 50) for the relief of	1	140
Bass, Elisha. On the bill (S. 553) for the relief of	1	278
Baum, George A. R. On the petition of	1	118
Beddo, William. On the bill (S. 927) for the relief of	3	398
Beeson, John. On the memorial of	1	254
Bell, Charles H. On the credentials of. (First session)	1	1
Benner, Della. On the bill (H. R. 3980) granting a pension to	7	715
Benton, Edward T. On the bill (S. 1031) for the relief of	1	291
Biggs, Herman. On the bill (S. 254) authorizing the President to place on the list of retired officers of the Army	3	424
Binnamon, H. On the bill (S. 680) granting a pension to	1	119
Black, John H. On the bill (H. R. 2862) granting an increase of pension to	6	635
Blair, Lewis J. On the bill (S. 1295) granting a pension to	3	437
Blanck, Dederick. On the bill (S. 338) granting a pension to	1	189
Bohn, C. On the bill (S. 687) for the relief of	1	142
Boll, Joseph, &c. On the petition of. (To accompany bill H. R. 3099).	7	684
Boreland, James M. On the bill (H. R. 254) granting an increase of pension to	3	436
Bowen, Emery. On the bill (S. 635) granting a pension to	6	607
Bowers, Van B. On the bill (S. 298) for the relief of	1	92
Bowman, William. On the bill (H. R. 2290) granting a pension to	6	662
Boyd, Carlile. On the bill (S. 1150) for the relief of	6	630
Boyden, N. On the bill (S. 715) for the relief of	1	154
Braden, Edward, &c. On the bill (S. 56) for the relief of	1	162
Braden, Spruille. To appoint him an ensign in the United States Navy. (To accompany bill S. 125, first session)	1	4
Bradeen, Jason C. On the bill (S. 1178) for the relief of	6	591
Brady, Bernard. On the bill (H. R. 2120) granting a pension to	7	705
Braunstetter, Philip. On the bill (S. 336) granting a pension to	1	31
Brawner, Thomas S. On the bill (S. 748) granting a pension to	1	340
Brevet appointments. On the bill (S. 219) relating to	1	130
Bridge. On the bill (H. R. 1381) for the construction across the Potomac River, at or near Georgetown, of a free	3	383
Bridges, Thomas S. On the bill (S. 229) for the relief of	3	448
Briggs, C. H. On the bill (S. 230) for the relief of	3	446
Brightman, Samuel B. On the petition of	5	494
Brocchus, Perry E. On the petition of. (To accompany bill S. 1395)	1	323
Bronson, Calvin. On the bill (H. R. 2269) for the relief of	1	248
Brown, Judith. On the bill (H. R. 4264) granting a pension to	6	606
Brown, Martha E. On the bill (S. 801) for the relief of	1	232
Browne, William R. On the bill (S. 1234) amending an act granting a pension to	3	358
Brownlow, Alexander S. On the memorial of	1	87
Bruner, Frederick R. On the bill (S. 848) granting a pension to	1	264
Bryant, William. On the bill (H. R. 3017) granting a pension to	7	690
Bunker, Isaiah W. On the bill (H. R. 2864) granting an increase of pension to	6	586
Burbank, Jacob E. On the bill (S. 313) for the relief of	1	308
Burbridge, J. W. & Co. On the bill (S. 1545) for the relief of	5	531
Burchard, Jabez. On the bill (S. 543) for the relief of	5	530
Burgess, Lawrence. On the bill (S. 1652) granting a pension to the minor children of	6	578

Subject.	Vol.	No.
Burk, Harvey. On the bill (H. R. 751) granting a pension to	7	687
Burke, James. On the bill (S. 952) for the relief of	1	197
Burnett, Ward B. On the bill (S. 477) for the relief of	1	28
Burr, Mary. On the bill (S. 181) granting a pension to	1	243
Burroughs, Thomas. On the petition of	5	493
Busby, W. W., &c. On the petition of	1	255
Byrne, Edward. On the bill (S. 1311) for the relief of	7	629
C.		
Cahill, Margaret. On the petition of	1	17
Caldwell, John W. On the bill (S. 784) for the relief of	3	398
Campbell, Joseph B. On the bill (S. 445) for the relief of	6	573
Campbell, J. B. On the bill (S. 317) for the relief of	1	72
Candee, G. W. On the bill (S. 904) for the relief of	5	462
Cantwell, L. C. On the bill (S. 307) for the relief of	1	61
Carpenter, Thomas H. On the bill (S. 129) for the relief of	1	319
Carroll, Maxwell. On the petition of	5	457
Carter, Ellen W. P. On the bill (S. 382) granting a pension to	1	188
Case, Luman. On the bill (S. 1114) granting a pension to	6	664
Castleman, Samuel. On the bill (S. 187) for the relief of	1	129
Caton, Noah. On the bill (H. R. 2854) granting a pension to	6	632
Census. On the resolution in relation to supervisors of	7	723
Chamberlin, Lowell. On the bill (S. 1300) for the relief of	6	627
Chambliss, William P. On the bill (S. 1660) for the relief of	6	626
Chandler, Theophilus P. On the bill (S. 22) for the relief of	1	59
Chaplains of the United States Navy. On the bill (S. 48) to promote the efficiency of	1	209
Chapman, Amos. On the petition of. (To accompany bill S. 1809)	7	691
Cheeks, John W. On the bill (S. 468) for the relief of	1	46
Chickering, John W. On the bill (S. 131) for the relief of	1	148
Chickering, John W. On the bill (S. 131) for the relief of	3	419
Churchman, Henry J. On the bill (S. 475) granting a pension to	1	35
Claesgens, Peter. On the memorial of. (To accompany bill S. 1197)	1	190
Clancey, John F. On the bill (S. 1087) for the relief of	1	292
Clark, M. F. On the bill (S. 76) for the relief of	1	94
Clarke, Lizzie D. On the bill (S. 1478) for the relief of	5	513
Clay, Cecil. On the petition of. (To accompany bill S. 1815)	6	695
Clinton, Charles. On the bill (S. 436) for the relief of	3	375
Coffey, Moses. On the petition of	3	367
Cogley, Thomas S. On the bill (S. 1654) granting a pension to	6	603
Colby, Seymour. On the bill (S. 1318) granting a pension to	7	688
Collins, Charles. On bills (S. 285 and S. 689) for the relief of. (To accompany bill S. 1346)	1	290
Colorado. On the bill (S. 769) to enable the State of, to take lands in lieu of sixteenth and thirty-sixth sections, &c	1	256
Combs, David W. On the bill (S. 1521) granting a pension to	7	697
Comfort, John C. On the bill (S. 417) for the relief of	1	62
Conklin, J. C. On the bill (S. 270) for the relief of	1	305
Connell, Arthur. On the petition of	1	287
Connor, James O. On the bill (S. 551) granting a pension to	1	175
Connor, B. B. On the bill (S. 1579) for the relief of	3	441
Cooper, C. W. On the bill (S. 785) for the relief of	3	398
Cooper, Wickliffe. (To accompany S. Res. 8.) Correcting the military record of	1	67
Cooprider, Eli. On the bill (S. 1363) granting a pension to	3	484
Cook, Daniel M. On the bill (H. R. 2019) to authorize the extension of the patent of	6	660
Cook, Hortensia H. On the bill (S. 66) for the relief of	1	163
Corselius, Edward. On the bill (S. 876) for the relief of	1	201
Costello, Margaret. On the bill (S. 1584) granting a pension to	6	602
Coston, Martha J. On the petition of. (To accompany bill S. 1761)	6	622
Council Bluffs. On the bill (H. R. 1064) to authorize the corporate authorities of, to use a certain lake, &c	6	657
Court of Claims. On the resolution relative to the rooms lately occupied by the	1	310

Subject.	Vol.	No.
Cowpens centennial committee. On the bill (S. 84) to furnish a bronze statue of General Daniel Morgan to the	5	52
Cox, John. On the petition of	6	64
Crain, Simeon. On the bill (S. 335) granting a pension to	1	11
Crawford, G. W. J. On the petition of	1	9
Creek orphan fund. On the bill (S. 451) to reimburse the	6	59
Cunningham, John S. On the bill (S. 286) for the relief of	1	14
Curtis, Belinda. On the bill (H. R. 2407) granting a pension to	5	55
Curtis, Belinda. On the bill (H. R. 2407) granting a pension to	7	69
Custer, Elizabeth B. On the bill (S. 459) for the relief of	1	24
D.		
Dakota Territory. On the bill (H. R. 5502) granting certain lands for an insane asylum and for school purposes	6	62
Darling, Mrs. Flora A. On the petition of	1	20
Dart, Anson. On the petition of	1	33
Davenport, Patsey. On the bill (S. 1597) granting a pension to	3	36
Davidson, Francis S. On the bill (S. 517) for the relief of	1	7
Davis, Samuel B. On the bill (S. 578) granting an increase of pension to	1	9
Davis, William H. On the petition of. (To accompany bill S. 1208)	1	20
Davis, Mary A. On the bill (S. 898) granting a pension to	3	36
Davis, John B. On the bill (S. 72) for the relief of	6	64
Davison, John. On the petition of	1	27
Defrees, John D. On the bill (S. 1090) for the relief of	3	42
Dennis, Ann. On the petition of	6	51
Dent, Capt. J. H. On the bill (S. 1084) granting arrears of pensions to the heirs of	6	66
Denton, Charles W. On the bill (S. 1291) for the relief of	3	47
Deponia, Martin J. On the petition of	1	31
De Witt, J. Clinton. On the bill (S. 497) granting a pension to	1	21
District of Columbia. On the condition of the water supply of the	1	3
District of Columbia. On the bill (S. 1125) to provide for building a market-house on square 446 in the	1	29
District of Columbia. On the bill (S. 894) for the relief of certain officers of the United States courts for the	1	30
District of Columbia. On the bill (S. 1681) to provide for funding the 8 per cent. improvement certificates of the	6	62
Dodd, Brown & Co. On the bill (S. 1181) for the relief of	7	71
Doddridge and Davis. On the bill (H. R. 2803) for the relief of	1	5
Dodge, Israel. On the bill (S. 310) for the relief of the heirs, &c., of	3	34
Dolan, John. On the bill (S. 556) appointing him second lieutenant and placing him on the retired list	1	13
Donoho, Monroe. On the bill (S. 996) for the relief of	1	15
Donohue, Frank, On the bill (S. 427) granting a pension to	1	2
Dorsey, John M., &c. On the bill (S. 212) for the relief of	1	6
Dougherty, Charles. On the bill (H. R. 270) for the relief of	3	44
Dougherty, Elizabeth. On the bill (H. R. 3261) granting a pension to	5	49
Doxsie, James W. On the bill (S. 370) granting an increase of pension to	1	22
Driscoll, Benedict J. O. On the bill (S. 1576) granting a pension to	3	43
Dunbar, Robert W. On the bill (S. 214) for the relief of	1	15
Durkee, Stephen. On the petition of	6	61
E.		
Elections, report of the Select Committee to inquire into alleged frauds in the late	5	49
Elections, report of the Select Committee to inquire into alleged frauds in the late	3	42
Elections, report of Select Committee to inquire into alleged frauds in the late. (To accompany bill S. 1721)	6	57
Elgie, W. J. On the bill (S. 1077) granting a pension to	3	44
Ellis, Marshall D. On the bill (S. 552) granting a pension to	1	3

Subject.	Vol.	No.
Employés of the government in the District of Columbia. On the bill (S. 831) for the relief of	1	164
English, William. On the bill (S. 332) authorizing the appointment to a second lieutenancy in the Army of	1	68
Epping, Carl, &c. On the memorial of	6	598
Eppler, Jacob H.. On the bill (S. 1070) granting a pension to	3	365
Eubank, Nancy. On the bill (S. 950) granting arrears of pension to	1	210
Evans, Isabel, L. and C. On the bill (S. 367) granting an increase of pension to	1	36
Evans, Samuel. On the petition of	3	453
Ewing, Robert. On the bill (S. 377) for the relief of	1	122
F.		
Fairchild, Stephen. On the bill (S. 1517) granting an increase of pension to	6	634
Fairly, Agnes. On the bills (S. 1452, H. R. 11) granting a pension to	5	499
Farmers' and Merchants' Bank, Paris, Texas. On the bill (S. 625) for the relief of (first session)	1	8
Farrar, Abram F. On the bill (S. 672) granting a pension to	3	435
Farrar, W. B. On the bill (H. R. 393) for the relief of	3	374
Farrow, Edward S. On the bill (S. 933) for the relief of	1	297
Ferrell, John H. On the bill (S. 412) granting a pension to	1	27
Fifth Infantry, U. S. A. On the bill (S. 106) for the relief of the officers of	1	43
Finley, Mrs. E. S. M. On the petition of	6	616
Finn, Masach. On the bill (H. R. 2603) granting a pension to	7	719
Fisher, John, guardian, &c. On the bill (H. R. 3544) granting a pension to	6	668
Fisher, Henry H. On the bill (H. R. 2468) granting a pension to	6	611
Flagg, Harriett. On the petition of	1	185
Flagg, Sarah S. On the petition of	3	351
Fletcher, Ann. On the petition of	5	544
Fletcher, Bird L. On the bill (S. 198) for the relief of	1	79
Florida, State of. On the resolution (S. 79) directing the Secretary of the Treasury to settle the accounts between the United States and the	3	378
Flynn, John. On the petition of	1	114
Foley, Jerry. On the bill (H. R. 3783) for the relief of	1	298
Foote, Rear-Admiral A. H. On the bill (S. 1538) authorizing the closing of the accounts of	5	541
Ford, Nehemiah. On the petition of	3	464
Fort Stockton, Texas. On Executive Document No. 25. (To accompany bill S. 1205)	1	204
Fort Abercrombie, &c. On the bill (H. R. 1305) abolishing the military reservations of	1	299
Fort Union. On the bill (S. 916) to authorize the United States to secure a title to certain timber reservations within the limits of	1	300
Fort Leavenworth military reservation. On the bill (S. 159) to provide for the sale of certain portions of	1	71
Fort Harker. On the bill (S. 194) for the disposal of the military reservation of	1	135
Fort Larned. On the bill (S. 193) for the disposition of the military reservation of	1	136
Fort Logan, Montana Territory. On the bill (H. R. 5894) to authorize the sale of	5	520
Fort Ripley reservation. On the bill (H. R. 1153) to restore to the public domain a part of	1	196
Fort Sedgwick military reservation. On the bill (S. 1742) in relation to the	6	661
Fox, Susan. On the bill (S. 1097) granting a pension to	1	217
Frank, Charles H. On the bill (S. 1334) granting a pension to	7	686
Franks, Margaret B. On the memorial of. (To accompany bill S. 1203)	5	505
Freedmen's Saving and Trust Company. (To accompany bills S. 711 and S. 1581.) Relating to the	3	440
French, L. C. On the bill (S. 1307) granting a pension to	5	488

Subject.	Vol.	No.
Frick, Eliza M. On the bill (H. R. 3021) granting a pension to	6	613
Fritschy, John F. On the bill (S. 663) granting a pension to	1	102
Fuller, E. C. On the bill (S. 779) for the relief of	3	398
Fultz, W. S. On the bill (S. 955) granting a pension to	1	227
G.		
Gaines, William. On the bill (H. R. 2902) to place on the retired list	1	202
Gallagher, Hugh. On the bill (S. 183) granting a pension to	1	317
Gamble, William J. On the bill (S. 1063) for the relief of	3	423
Gano, Phineas. On the bill (S. 1323) granting a pension to	5	548
Gardner, Jared. On the bill (S. 691) for the relief of	1	226
Gault, John, jr. On the bill (S. 105) for the relief of	1	44
Getert, Peter. On the bill (S. 341) granting a pension to	1	33
Gettysburg. On the letter of the Secretary of War, relative to the maps of the battle of. (To accompany bill S. 1490)	3	382
Gibbes & Co. On the bill (S. 185) for the relief of	1	95
Gibson, Narcissa. On the bill (S. 855) for the relief of	1	168
Gill, Ira. On the petition of. (To accompany bill S. 846)	3	384
Gill, William H. On the bill (S. 1710) for the relief of	5	560
Gillen, Paul E. On the bill (H. R. 3351) for the relief of	5	522
Gillespie Ellen. On the bill (H. R. 1890) granting a pension to	7	689
Gillis, Catherine I. On the bill (H. R. 2377) for the relief of	3	396
Goldsborough, Elizabeth Wirt. On the bill (S. 3) granting a pension to	6	577
Goodlow, Armstead. On the petition of	1	184
Gotshall, John. On the bill (S. 149) for the relief of	5	525
Graham, George W. On the petition of	3	458
Granery, Michael, &c. On the bill (S. 695) for the relief of	1	134
Grapeshot. On the bill (H. R. 2802) for the relief of the owner of the bark	3	381
Greene, J. B., &c. On the memorial of. (To accompany bill S. 1366)	1	303
Views of the minority on same. (Part 2)	1	303
Gregory, Ann. On the bill (S. 280) for the relief of	1	260
Grierson, John. On the bill (S. 944) for the relief of	1	275
Grivet, Phebe A. On the petition of	1	13
Gross, Frank P. On the bill (S. 74) for the relief of	3	412
Grove, Mrs. Virginia. On the petition of	1	113
Grubb, Jackson. On the bill (H. R. 710) for the relief of	1	325
Guest, Anna I. On the bill (S. 972) granting an increase of pension to	7	701
Gunn, Charles E. On the bill (S. 1340) for the relief of	3	409
Gustin, Samuel I. On the bill (S. 549) for the relief of	1	257
Guthrey, William B. On the petition of	1	115
H.		
Hale, William H. On the bill (S. 617) granting a pension to	1	108
Hall, P. P. G. On the bill (S. 175) for the relief of	1	195
Halleck, Walter F. On the bill (S. 536) for the retirement of, with the rank and pay of lieutenant-colonel	1	152
Ham and Brown. On the memorial of	1	98
Hamilton, Schuyler. On the bill (S. 664) for the relief of	1	321
Hancock, Robert L. On the bill (S. 184) granting a pension to	1	22
Handley, Walter S. On the petition of	1	269
Hansell, William S., and Sons. On the petition of. (To accompany bill S. 1768)	6	623
Harben, Nathaniel P. On the bill (S. 200) for the relief of	3	350
Hardin, W. M. On the bill (S. 786) for the relief of	3	398
Hargrove, James E. On the bill (S. 609) granting a pension to	1	101
Harner, John. On the bill (S. 1169) granting a pension to	5	565
Harris, Catharine. On the bill (S. 1454) amending an act granting a pension to	7	709
Hartridge, Theodore F., &c. On the bill (S. 816) for the relief of	3	377
Haskin, Rebecca E. On the bill (S. 1535) granting an increase of pension to	5	537
Hatcher, Aaron. On the bill (S. 1360) granting a pension to	1	338
Hayne, Michael. On the bill (S. 1133) granting a pension to	6	587

Subject.	Vol.	No.
Hayward, Daniel. On the memorial of the heirs of	6	617
Heard, James A. On the bill (S. 374) for the relief of	1	282
Hebb, George V. On the bill (S. 180) for the relief of	1	141
Hein, Ernst. On the petition of. (To accompany bill S. 1484)	3	369
Heintzelman, Margaret S. On the petition of. (To accompany bill S. 1776)	7	699
Helper, Hardie Hogan. On the bill (S. 365) granting a pension to	7	698
Hendrickson, Mrs. Thomas. On the petition of	1	80
Henry, Elizabeth Vernor. On the petition of	5	495
Hensley, John. On the bill (S. 775) for the relief of	3	398
Henson, A. J. On the bill (S. 778) for the relief of	3	398
Herrick, Zenas. On the petition of	1	11
Hibbs, George D. C. On the bill (S. 1059) for the relief of	1	284
Hoff, Louisa Bainbridge. On the bill (S. 21) granting a pension to	5	552
Hoffman, John W. On the bill (S. 1455) authorizing the appointment of, as second lieutenant in the United States Army	5	563
Holladay, Ben. On the petition of. (To accompany bill S. 231)	1	216
Hollingsworth, George. On the bill (S. 303) for the relief of	3	391
Holman, Herman, &c. On the bill (S. 618) for the relief of	1	50
Homestead settlers. On the bill (S. 316) for the relief of	1	241
Hoopes, Abner. On the bill (H. R. 3264) granting a pension to	5	501
Hopperton, Mrs. Mary. On the petition of	6	647
Hornaday, Colby. On the bill (H. R. 745) granting a pension to	7	673
Hostadt, John. On the bill (H. R. 3656) for the relief of	6	658
Hostie, Thomas. On the petition of	1	327
Hot Springs. On the bill (H. R. 4244) for the establishment of titles in	1	309
Houlihan, Daniel. On the petition of	1	318
Howard, James G. On the bill (S. 188) correcting the military muster-in of	1	69
Howard, Edward. On the bill (S. 1038) granting an increase of pension to	7	700
Hubbell, John. On the bill (S. 956) granting a pension to	1	170
Hudson, Julia M. On the petition of	6	642
Hunt, James. On the bill (S. 47) for the relief of	1	131
Hunt, Jacob S. On the petition of	1	18
Huson, Edgar. On the bill (S. 915) for the relief of	3	385
Hutchison, Samuel B. On the bill (H. R. 3100) for the relief of	7	707
I.		
Ingalls, John J. On the memorials relating to the election of, as a Senator from the State of Kansas	2	277
Interior, Secretary of. On the bill (S. 1195) authorizing him to deposit certain funds in the United States Treasury in lieu of investment	1	186
Irving, Arthur W. On the bill (S. 1072) granting a pension to	1	266
Irwin, Joseph C. On the bill (S. 1312) for the relief of	6	645
J.		
Jackson, Thomas J. On the bill (H. R. 753) granting a pension to	6	667
James, B. S. On the bill (S. 60) for the relief of	6	650
Jeffords, Susan. On the petition of. (To accompany bill S. 1045)	1	107
Jeffrey, Rosa Vertner. On the bill (S. 103) for the relief of	1	58
Jenkins, Cyprian T. On the bill (S. 896) for the relief of	3	404
Johnson, Hiram. On the bill (S. 376) granting a pension to	1	34
Johnson, Hiram, &c. On the bill (H. R. 6033) for the relief of	7	725
Johnson, Jeanette S. On the petition of	6	597
Johnson, Thomas P. On the bill (S. 913) granting a pension to	6	570
Johnston, Samuel H. On the bill (S. 1403) granting an increase of pension to	3	432
Jones, Jacob D. On the bill (S. 613) for the relief of	1	273
Jones, Mary W. On the bill (S. 871) granting a pension to. (To accompany bill S. 1501)	3	387
Jones, Reuben S. On the bill (S. 455) for the relief of	1	93
Julius, Peter. On the bill (H. R. 3557) granting a pension to	6	608

Subject.	Vol.	No.
K.		
Kansas. On the bill (H. R. 2481) to create an additional land district in the State of	6	639
Kansas City, Fort Scott and Gulf Railroad Company. On the resolution (S. Res. 85) for the relief of	7	717
Kansas City, &c. On the bill (S. 829) extending the provisions of section 2997 of the Revised Statutes to the ports of	3	392
Kansas, State of. On the bill (S. 80) to ascertain the amount of money expended by, in repelling Indian invasions	1	139
Kansas trust and diminished reserve lands. On the bill (S. 619) for the relief of certain settlers on	1	89
Kearney, Thomas. On the bill (H. R. 2188) for the relief of	1	160
Kelley, Nicholas H. On the bill (S. 591) granting a pension to	1	236
Kennon, B. W. On the petition of. (To accompany bill S. 1501)	3	387
Kennon, Beverly. On the memorial of	1	143
Kerchner, Gallus. On the bill (S. 757) for the relief of	5	506
Key, John J., &c. On the bill (S. 87) for the relief of	1	280
Kilbourne, Lucien. On the bill (S. 637) granting an increase of pension to	1	259
Kinder, Jefferson. On the bill (S. 446) granting a pension to. (First session)	1	6
King, James. On the petition of. (To accompany bill S. 1044)	1	106
King, Jacob B. On the bill (S. 388) for the relief of	1	147
Kirby, D. T. On the bill (S. 965) for the relief of	1	193
Kirby, D. T. On the bill (S. 965) for the relief of	3	420
Klauser, Emanuel. On the bill (S. 368) for the relief of	1	49
L.		
Lachman, Martha A. On the billl (S. 851) granting a pension to	5	502
Lammey, Reese. On the petition of. (To accompany bill S. 1384)	1	315
Lands located with military warrants. On the bill (S. 19)	1	121
Lands. On the bill (S. 989) for the relief of settlers on the public	5	553
Latham, O. B. and O. S. On the bill (S. 1621) for the relief of	6	659
Lawson, Anthony. On the bill (S. 1109) for the relief of	3	403
League, Thomas J. On the bill (S. 1322) for the relief of	3	401
Leamy, George W. On the bills (S. 732 and H. R. 5803) granting a pension to	7	675
Lecompte, Samuel D. On the memorial of	3	470
Leedom, Levi. On the bill (H. R. 1465) granting a pension to	3	433
Leef, Juliet, &c. On the bill (H. R. 2262) for the relief of	3	471
Views of the minority on same. (Part 2)	3	471
Leggett, Mrs. Mary. On the bill (S. 985) granting a pension to	1	265
Lewis, Joseph N. On the bill (S. 299) for the relief of	1	165
Lieb, Edward H. On the bill (H. R. 1463) granting an increase of pension to	6	636
Lieurance, Esther E. On the bill (S. 526) granting a pension to	1	219
Lindsley, James P. On the bill (S. 777) for the relief of	3	398
Lines, Henry F. On the bill (S. 326) for the relief of	3	450
Lingenfelter, Michael. On the bill (H. R. 1806) granting a pension to	5	500
Little Traverse Harbor, on Lake Michigan. On the bill (S. 1610) for the erection of a light-house at the entrance of	3	477
Logan, John S. On the bill (S. 24) for the relief of	1	64
Long, Daniel D. On the bill (H. R. 2467) granting a pension to	6	609
Long, Ella. On the bill (S. 1376) for the relief of	3	476
Long, Mrs Ellen Call. On the memorial of. (To accompany bill S. 1779)	6	648
Longnecker, William. On the petition of	1	97
Longshaw, Margaret. On the petition of	7	694
Lord, Mary A. On the bill (S. 742) for the relief of	1	324
Lord, Samuel, jr. On the bill (S. 62) for the relief of. (First session)	1	7
Louis, Rosalie. On the bill (H. R. 4887) granting a pension to	7	678
Lowe, Samuel A. On the bill (S. 364) for the relief of	6	644
Lowry, Thomas. On the bill (H. R. 229) granting a pension to	6	583
Luckett, Elisha M. On the bill (S. 1216) granting a pension to	3	431
Lull, Fannie. On the bill (S. 132) granting a pension to	1	176

Subject.	Vol.	No.
Lynchburgh, Va. On the bill (H. R. 2797) for the relief of citizens of	3	465
Lyon, Nelson, &c. On the bill (H. R. 2518) for the relief of	1	262
Lytle, P. P., &c. On the petition of	5	502
M.		
Mackey, Mrs. Hannah. On the petition of. (To accompany bill S. 1711).	5	568
Mackey, Thomas J. On the bill (S. 1716) granting a pension to	6	584
Macon, Ga. On the bill (S. 111) for the relief of the city of	1	272
Manville, Helen Francis. On the petition of	5	569
Marietta, Ohio. On the bill (H. R. 3347) to authorize the Secretary of War to furnish four pieces of condemned ordnance for the soldiers' monument at	1	328
Martin, James, and Brothers. On the bill (S. 783) for the relief of	3	398
Martin, Rachel. On the bill (H. R. 2793) for the relief of	6	643
Masten, Claude, H. On the claim of. (To accompany bill S. 1088)	1	124
Matthews, Jabez. On the petition of	.....	456
Mattison, Marietta. On the bill (S. 960) for the relief of	5	540
Maxwell, W. S. On the bills (H. R. 3064 and S. 892) to remove the political disabilities of	3	360
Mayhugh, Lucy E. On the petition of	3	463
McAuley, Angus. On the bill (S. 1432) granting a pension to	5	557
McBrayer, John H. On the bill (H. R. 1938) granting a pension to	7	706
McCaffrey, Thomas W. On the bill (S. 602) restoring to the pension-roll, &c	3	342
McCauley, Lelia E. On the petition of. (To accompany bill S. 1728)	6	581
McCarty, James C. On the bill (S. 363) granting an increase of pension to	1	244
McCarty, S. A. On the petition of. (To accompany S. Res. 96)	3	395
McConnell, Eliza. On the bill (H. R. 3260) granting a pension to	6	580
McCullom, Abram M. On the petition of	1	117
McDonald, John G. On the bill (S. 639) granting a pension to	1	234
McGee, William. On the bill (S. 1039) to authorize the restoration to the Army, &c., of	3	459
McGeehan, Thomas. On the petition of	3	368
McGovern, William. On the bill (S. 474) for the relief of	1	240
McKenna, James O. On the bill (S. 975) granting a pension to	3	363
McMurray, Robert A. On the bill (S. 692) for the relief of	3	421
McNilt, Manly B. On the bill (S. 1103) for the relief of	3	353
McReynolds, Andrew T. On the bill (S. 1006) for the relief of	5	516
Meagher, Peter. On the bill (S. 401) for the relief of	1	55
Meech, Phœbe. On the bill (S. 576) granting a pension to	6	601
Meighan, Mary. On the bill (H. R. 2643)) granting a pension to	6	604
Merrick, Fowler, and Esseltyne, &c. On the memorial of	3	430
Metric system. On the bill (H. R. 2270) to pay for extra services in the Forty-fifth Congress relating to the	3	452
Military organizations. On the bill (S. 853) to pay the members of, &c	1	294
Miller, Herman. On the petition of. (To accompany bill (S. 981).	1	263
Miller, Margaret. On the petition of	1	181
Miller, W. H. On the bill (S. 535) granting a pension to	1	23
Mills, Margaret. On the bill (S. 251) granting an increase of pension to	1	316
Missouri Cavalry Volunteers. On the bill (H. R. 952) for the relief of the Fifteenth and Sixteenth Regiments of	7	681
Montana, Idaho, and Wyoming. On the bill (H. R. 5203) providing for the reapportionment of the members of the legislatures in the Territories of	5	538
Montana Territory. On the memorial of the legislative assembly of	1	57
Montana Territory. On the memorial of the legislative assembly in relation to military telegraph	1	85
Moon, Squire. On the petition of	1	12
Moore, Daniel E. On the bill (S. 776) for the relief of	3	398
Moore, Mrs. Emma M. On the bill (S. 1188) granting arrears of pension to	1	221
Moore, Mrs. Emma M. On the petition of	1	180
Moore, Isaac F. On the petition of	1	167
Moreland, Basil. On the bill (S. 1152) for the relief of	6	575

Subject.	Vol.	No.
Morgan, General Daniel. On the resolution (S. 84) to furnish a bronze statue	6	640
Morgan, Daniel. On the bill (S. 84) to furnish a bronze statue of	5	526
Morgan's Louisiana Railroad and Steamship Company. On the bill (S. 92) for the relief of	3	407
Morgan, James. On the bill (S. 1411) granting a pension to	5	483
Morgan, William O. On the bill (S. 899) granting a pension to	1	261
Morgan Peter K. On the bill (S. 1113) granting a pension to	3	343
Morris, Solomon. On the bill (S. 1100) for the relief of	1	126
Morris, W. J. On the bill (S. 1754) granting a pension to	6	612
Montgomery, Ala. On the bill (S. 464) for the erection of a public building at	1	314
Mulholland, Saint Clair A. On the bill (S. 1676) granting an increase of pension to	7	702
Murphy, Ailsey E. On the petition of	7	703
Myers, David H. On the petition of	1	14
Myers, David H. On the bill (S. 991) granting a pension to	1	111
Myers, H. A. On the bill (S. 160) for the relief of	3	445
N.		
Naval Academy. On the bill (H. R. 5627) to amend section 1486, of the Revised Statutes in relation to engineer officers, graduates of the	6	666
Naval constructors. On the bill (S. 813) relating to the appointment of	3	379
Naval officers. On the bill (S. 397) for the relief of	1	279
Naval service. On the bill (S. 826) for the relief of persons impressed into the	3	386
Navy. On the bill (H. R. 3983) to provide a construction fund for the	6	653
Navy. On the bill (S. 1210) for the relief of certain officers of the	6	651
Navy. On the bill (H. R. 5628) providing for the permanence of machinists in the	5	536
Navy. On the bill (S. 918) for the relief of volunteer officers of	3	380
Neat cattle. On the bill (H. R. 2006) relative to the importation of, &c.	1	335
Nebraska. On the memorial of the legislature of, in relation to the establishment of military pos t	1	86
Negroes. Report of the committee on the causes which led to the migration from the Southern to the Northern States of the. (Part 2 and 3)	8	693
Neill, James P. W. On the bill (S. 530) for the relief of	3	461
Nelson, Emma G. On the bill (S. 281) for the relief of	1	281
Nelson, John, &c. On the bill (S. 208) granting a pension to	1	187
Netterfield, Herman. On the bill (S. 35) granting a pension to	1	74
Nevada. On the bill (H. R. 3708) to grant certain lands to the State of	6	656
Newcomb, Fanny. On the petition of	1	268
New Era. On the bill (S. 557) authorizing the payment of the prize-money to the captors of	1	251
Newlin, Annie P. On the bill (S. 810) granting a pension to	1	233
Newton, Walker A. On the bill (S. 1058) for the relief of	3	370
Nicaragua. On the resolution appointing a select committee to inquire into all claims of citizens of the United States against the Government of. (To accompany bill S. 1650)	5	532
Nicholson, Somerville. On the bill (S. 201) for the relief of	3	402
Niobrara, in Nebraska, to Fort Robinson. On the bill (S. 773) to establish a military wagon road from	1	132
Nix, Jacob. On the bill (S. 620) granting a pension to	1	109
Nix, John B. On the bill (S. 347) for the relief of	7	710
North Carolina. On the resolution (S. 71) restoring the official letter-books of the executive department of the State of	3	411
Northern Cheyenne. On the resolution (S. 120) to examine into the circumstances of their removal from the Sioux reservation to the Indian Territory	7	708
Norwegian bark Atlantic. On the bill (S. 850) to provide a commission for the adjudication of damages to	1	285
O.		
Olcott, Egbert. On the bill (S. 235) granting increase of pension to	1	267

Subject.	Vol.	No.
Omaha. On the bill (S. 856) extending the provisions of section 2997 of the Revised Statutes of the United States to the port of	3	389
O'Reagan Matthew. On the petition of. (To accompany bill S. 1697)	5	558
Osage trust. On the bill (H. R. 2326) for the relief of settlers upon	1	274
Owen, Lizzie Wright. On the petition of	6	592
Owens, Thomas, &c. On the bill (H. R. 4606) authorizing the President to appoint assistant surgeons in the United States Navy	3	348
Oyler, William D. On the bill (H. R. 2359) for the relief of	1	326
P.		
Pacific Railroads. On resolution in relation to the discrimination of	5	504
Page, D. M. On the bill (S. 1288) to authorize the President to restore, to his former rank in the Army	5	562
Page, Frank A. On the bill (S. 252) for the relief of	1	47
Palmer, Mrs. Sallie A. On the bill (S. 1620) granting an increase of pension to	6	579
Parsons, Amelia B. On the petition of	1	15
Patrick, William P. On the bill (S. 480) for the relief of	1	48
Pattee, John. On the petition of	5	509
Pattee, Wallace. On the petition of	1	112
Paulding, Ann M. On the petition of. (To accompany bill S. 1802)	7	674
Payne, David L. On the bill (S. 440) granting a pension to	6	665
Payne, G. E. On the petition of. (To accompany bill S. 1720)	5	571
Payne, John A. On the bill (S. 1645) for the relief of	6	624
Pension cases. On the bill (S. 1586) to regulate the fees of attorneys in	5	535
Pension claims. On the bill (S. 496) to provide for the examination of	3	418
Pensions. On the bill (S. 1272) granting to certain persons an increase of	5	534
Persons. On the bill (S. 527) providing for the imprisonment of all persons sentenced by United States courts, in the States wherein they were tried and convicted	1	161
Perry, P. B. On the bill (S. 1546) granting a pension to	6	637
Phares, Jesse F. On the petition of	1	192
Phares, Jesse F. On the bill (S. 1185) granting a pension to	1	228
Phillips, Charles B. On the bill (S. 1276) for the relief of	3	451
Phillips, Peter. On the bill (S. 389) for the relief of	1	145
Pierce, Elizabeth H. On the bill (S. 545) granting a pension to	3	414
Pillsbury, Josiah H. On the bill (S. 762) for the relief of	1	65
Plass, Reuben H. On the bill (S. 259) for the relief of	1	289
Plattsburg. On the bill (S. 243) to secure a release by the United States to the State of New York to some land in. (First session)	1	9
Plunkett, Mary and Annie. On the bill (S. 1531) granting a pension to	6	610
Point San José, California. On the bill (S. 890) relative to the title of certain settlers on lands in	3	357
Poland, James H. On the bill (S. 337) granting a pension to	1	177
Pollock, Samuel. On the bill (S. 1706) granting a pension to	6	605
Ponca Indians. On the bill (S. 1298) for the relief of the	6	670
Pontiac, National Bank at, Illinois. On the bill (H. R. 2649) to authorize the Comptroller of the Currency to issue $500 in new notes to	1	295
Port Huron and Northwestern Railway Company. On the resolution (S. 3) to authorize the city of Port Huron to grant the right of way to, &c	1	203
Porter, General Fitz-John. On the letter of the President, transmitting the proceedings of the board convened by his orders on the case of. (To accompany bill S. 1139)	1	158
Views of the minority on same case. (Parts 2 and 3)	1	158
Postmasters. On the bills (S. 44, S. 246, and S. 262) for the relief of. (To accompany bill S. 903)	1	60
Postal service. Special, to extend the time of. (To accompany bill S. 516.) (First session)	1	3
Postmaster-General. On the bill (S. 1419) to adopt a uniform canceling-ink and stamping-pad	3	408
Potts, Joseph. On the bill (S. 293) granting a pension to	6	600
Poverty Island light-house. On the bill (S. 627) for the relief of workmen employed in the construction of	3	405

Subject.	Vol.	No
Powell, P. P. On the bill (H. R. 4439) to remove the disabilities of...	3	3
Powers, Eliza Howard. On the bill (S. 532) for the relief of.....	1	2
Preston, James. On the petition of.....	1	
Price, Martin. On the petition of.....	5	5
Prize-money. On the bill (S. 522) in relation to the distribution of.....	1	2
Public lands. On the bill (S. 666) relating to the.....	3	3
Purman, J. J. On the bill (S. 148) granting an increase of pension to..	3	4
Q.		
Quartermaster's Department. On the bills (S. 192 and 577) to correct the date of the commission of certain officers of the.....	3	4
Views of the minority. (Part 2)	3	4
Quartermasters' supplies. On the bill (S. 529) to provide for the care and protection of.....	5	5
R.		
Railway companies. On the bill (S. 98) to settle accounts with certain....	1	2
Railway service. On the bill (S. 1209) to fix the salaries of persons in the.	1	3
Ransom, Dunbar R. On the bill (S. 390) for the relief of	1	1
Ransom, Dunbar R. On the bill (S. 390) authorizing the President to restore to his former rank in the Army.....	3	4
Rauthe, Theodore. On the bill (S. 963) granting a pension to.....	3	3
Rathbun, Earl S. On the bill (S. 1808) granting a pension to.....	7	7
Rawson, Smith E. G. On the bill (S. 1082) for the relief of.....	5	4
Reber, Rachael J. On the bill (H. R. 2855) granting a pension to	5	4
Redden, W. O. On the bill (S. 1154) for the relief of the legal representatives of.....	3	3
Reed, Charles. On the bill (S. 342) granting a pension to.....	1	
Reed, Charles. On the bill (S. 957) granting a pension to.....	1	2
Reed, John N. On the bill (S. 52) for the relief of	1	
Reed, John. On the bill (S. 1336) for the relief of.....	3	4
Reeve, James H. On the bill (S. 39) granting a pension to.....	1	1
Registered articles, &c. On the bill (S. 843) to provide for the indemnity for lost.....	1	1
Registers and receivers. On the bill (S. 490) relating to the fees of	1	2
Reid, Sam. C. On the memorial of. (To accompany bill S. 1441).....	3	3
Reilly, Bernard, jr. On the bill (S. 147) to authorize the President to restore to his former rank in the Army.....	3	4
Reuss, P. F. On the petition of.....	3	3
Revised Statutes to provide for the publication of a supplement to. (To accompany joint resolution S. R. 19). First session	1	
Revised Statutes. On the resolution (S. 59) repealing part of section 4693 of.....	5	5
Revised Statutes. On the bill (H. R. 5627) to amend section 1486 of the.	6	6
Rhode Island. On the memorial of Greene, &c. (To accompany bill S. 1366).....	2	3
Views of the minority on same. (Part 2).....	2	3
Richards, A. W. On the bill (S. 339) granting a pension to.....	3	3
Richmond and Southwestern Railway Company. On the bill (S. 1593) authorizing it to build bridges across Pamunky River, &c.....	3	4
Riley, Thomas. On the bill (H. R. 2474) granting an increase of pension to	6	5
Rinquet, Frank. On the bill (S. 46) for the relief of.....	1	
Rio Grande. On the bill (S. 53) for the erection of posts for protection of.	1	
Robinson, H. P. On the petition of	6	5
Robinson, Jerry. On the bill (S. 1017) granting a pension to.....	1	2
Robinson, Martha J. On the bill (H. R. 740) granting a pension to.....	3	4
Robinson, Solomon S. On the petition of.....	1	1
Roche, Hannah. On the petition of.....	1	2
Rockafellow, B. F. On the bill (S. 1020) for the relief of.....	6	6
Rogers, Charles W. On the bill (S. 411) for the relief of.....	1	1
Rogers, Elisha F. On the bill (S. 1361) granting an increase of pension to.....	3	3
Rogers, William A. On the petition of.....	5	5

Subject.	Vol.	No.
Rolfe, Henry P. On the petition of. (To accompany bill S. 1839)	7	720
Roosevelt, Nelson J. On the bill (S. 358) granting a pension to	1	339
Rose, James. On the petition of	1	19
Ross, William W. On the bill (S. 707) for the relief of	1	128
Rothrock, Thomas Hugh. On the bill (S. 970) granting a pension to	1	171
Rousseau, Maria A. On the bill (S. 1333) granting arrears of pension to	3	355
Ruby, James N. On the bill (H. R. 1128) for the relief of	5	564
Rumbly, Thomas J. On the petition of citizens of Anderson County, Kansas, asking a pension for	1	182
Ryan, Edmund T. On the bill (S. 1036) for the relief of	1	329
S.		
San Antonio arsenal. On the bill (S. 54) to enable the Secretary of War to enlarge and protect the same	1	41
San Antonio and Mexican Border Railway Company. On the bill (S. 115) authorizing the Secretary of War to contract with the	7	716
Saint Louis. On the bill (S. 828) extending the privileges of sections 2990 to 2997, inclusive, of the Revised Statutes, to the port of	3	390
Saulpaw, G. W. On the petition of. (To accompany bill S. 1606)	3	454
Saxton, M. W. On the case of	1	304
Sayer, J. P. On the bill (H. R. 1460) granting a pension to	3	480
Schell, Emma. On the bill (S. 1305) granting a pension to	3	474
Schroeder, Henry. On the bill (S. 1615) granting a pension to	7	704
Schoyer, Samuel C. On the bill (H. R. 253) increasing the pension of	3	469
Scott, Rebecca T. On the bill (S. 1248) granting a pension to	3	487
Seaton, Lee R. On the bill (S. 499) granting a pension to	1	24
Seeley, David W. On the petition, &c., of	5	523
Selden, William. On the bill (S. 1476) for the relief of	5	511
Seymour, Henry P., &c. On the bill (S. 710) for the relief of	1	293
Shannon, Joseph R. On the bill (S. 33) for the relief of	1	155
Shelley, William. On the bill (S. 733) granting an increase of pension to	6	631
Shemelia, Mary A. On the bill (S. 182) granting a pension to	6	663
Shepley, Mary E. On the petition of	7	682
Shields, Edward, &c. On the bill (S. 128) for the relief of	1	45
Shimoneck, William C. On the petition of	1	214
Shollenburger, Joseph B. On the petition of	1	179
Shouse, Hiram C. On the bill (S. 1515) granting a pension to	5	521
Showman, Joseph. On the bill (H. R. 2857) granting a pension to	3	478
Shreve, Henry M. On the bill (S. 814) for the relief of	3	399
Shumaker, Lindsay M. On the petition of	6	615
Sidney, Nebraska. On the bill (S. 754) relocating and improving military wagon-road from	1	133
Signal Service, United States Army. On the bill (S. 821) fixing the compensation of enlisted men in the	1	322
Simmons, Thomas M. On the bill (S. 476) for the relief of	1	286
Slamm, Jane E. On the petition of	7	685
Slaughter, Henry. On the petition of	5	518
Smallwood, Susan. On the bill (S. 1235) granting a pension to	1	337
Smith, Charles B. On the bill (S. 287) for the relief of the heirs of	1	199
Smith, Dennis. On the bill (S. 1557) granting a pension to	5	546
Smith, Major D. C. On the bill (S. 1124) for the relief of the heirs of	3	466
Smith, George. On the bill (S. 465) granting an increase of pension to	7	680
Smith, Jacob J. On the bill (H. R. 2039) granting a pension to	6	590
Smith, Henry C. On the bill (S. 797) granting a pension to	1	174
Smith, John. On the bill (S. 154) granting a pension to	1	25
Smith, Stephen D. On the bill (S. 1051) granting increase of pension to	1	218
Smith, Thornton. On the petition of. (To accompany bill S. 562)	1	230
Snead, E. K., &c. On the bill (H. R. 2567) for the relief of	7	677
Snider, John. On the bill (S. 1186) granting a pension to	1	229
Snider, John. On the petition of	1	191
Snyder, Aaron. On the petition of citizens asking a pension for	1	82
Snyder, John M. On the bill (S. 582) granting a pension to	1	110
Soldiers' and sailors' monument at Chalmette national cemetery, Louisiana. On the bill (S. 137) to aid the completion of	1	56

Subject.	Vol.	No
Soldiers and sailors. On the bill (S. 815) to increase the pension of certain	1	
Soldiers' Union of West Virginia. On the bill (H. R. 2771) granting condemned bronze cannon to	1	2
Soldiers of color. On the bills (S. 792 and S. 865) relative to the distribution of unclaimed pay and bounty moneys of	3	3
Soldiers' Home. On the letter of the Secretary of War. (To accompany bill S. 1550)	3	4
Somerville and Davis. On the bill (S. 324) for the relief of	1	
South Carolina. On the bill (S. 1135) authorizing the Secretary of War to adjust and settle accounts for arms with the State of	3	4
Sparr, Milton L. On the petition of. (To accompany bill S. 1193)	1	1
Spear, Horace S. On the petition of. (To accompany bill S. 1638)	5	4
Speer, Calvin T. On the bill (S. 223) to authorize the restoration of, to the rank of second lieutenant, United States Army, &c	1	1
Spencer, William C. On the bill (S. 662) for the relief of	6	6
Springfield and New London Railroad Company. On the bill (H. R. 55) granting right of way across Water Shops Pond	1	1
Spofford, Henry M. On the memorial of	4	3
Staplin, George W. On the bill (S. 1464) granting arrears of pension to	5	5
Starr, Henry. On the bill (S. 1306) for the relief of	6	6
Stearns, Hannah L. On the petition of	1	
Stevens, James H. On the bill (S. 1166) granting a pension to	3	3
Stockstill, David W. On the bill (S. 366) for the relief of	6	6
Stockwell, William. On the petition of. (To accompany bill S. 1729)	6	5
Street, Harlow L. On the bill (S. 747) for the relief of	1	
Stuart, Duncan M. V. On the bill (S. 809) for the relief of	3	4
Sutherland, Elizabeth. On the petition of. (To accompany bill (S. 1232)	1	2
Sullivan, Patrick. On the bill (S. 426) for the relief of	1	1
Supreme Court of the United States. On the bill (H. R. 1493) to define the duties of the reporter of the	3	4
T.		
Tabor, N. A. W. On the bill (S. 983) for the relief of	6	6
Taylor Co., N. and G. On the bill (S. 1353) for the relief of	3	4
Taylor, Sophia Brooke. On the bill (S. 1249) granting a pension to	5	5
Taylor, Mrs. Virginia. On the petition of	1	1
Territories. On the bill (H. R. 5048) relating to the justices of the peace in the	3	4
Terry, W. H. On the bill (S. 504) to correct the military record of	3	4
Texas. On the bill (S. 967) to extend the jurisdiction of the northern district of	1	3
Thatcher, Samuel M. On the petition of	1	
Thomasson, Joseph F. On the petition of	1	1
Thompson, C. J. E. On the petition of	1	1
Thompson, G. W., &c. On the bill (S. 759) for the relief of	7	7
Thornburg, Thomas T. On the bill (S. 1046) granting an increase of pension to the widow of	1	1
Thornly, John. On the petition of. (To accompany bill S. 1206)	1	5
Tibbetts, Charles W. On the petition of	5	5
Tiedemann, Louis C. On the bill (S. 870) granting a pension to	1	1
Tilton, Abigail S. On the bill (S. 205) granting arrears of pension to	7	6
Tindall, Mary A. On the bill (S. 702) granting a pension to	1	1
Todd, Harry I. On the bill (S. 1628) for the relief of	7	6
Tolley and Eaton. On the bill (S. 170) for the relief of	1	3
Towle, Albert. On the bill (S. 17) for the relief of	1	
Towle, Albert. On the bill (S. 16) for the relief of	1	5
Town, Hiram S. On the bill (S. 1202) for the relief of	3	4
Treasury Department. On the resolution appointing a committee to investigate the finance reports, books, and accounts of the	5	5
Trekell, Carolina. On the bill (S. 534) granting a pension to	1	5
Troisgros, E. On the bill (S. 677) for the relief of	3	4
Tryon, Spencer W. On the bill (S. 982) granting a pension to	1	5
Tully, Redmond. On the bill (S. 592) for the relief of	1	1

Subject.	Vol.	No.
Turner, Junius T. On the bill (S. 731) for the relief of	1	78
Tyler, Julia Gardner. On the bill (S. 992) granting a pension to	7	671
U.		
United States courts. On the resolution (H. R.) relating to the fees, salaries, and emoluments allowed the officers of	1	258
V.		
Vance, James, &c. On the petition of. (To accompany bill S. 1268)	1	252
Vaughn, L. W. On the bill (S. 782) for the relief of	3	398
Vaughn, R. On the bill (S. 780) for the relief of	3	398
Vaughn, Thomas A. On the bill (H. R. 2860) granting a pension to	3	482
Venable, S. W. On the petition of	1	178
Virginia Military Institute. On the bill (S. 290) to issue wall tents to, &c.	1	193
Vollum, Edward P. On the bill (S. 296) for the relief of	1	54
Voorhees, Anne R. On the petition of	3	344
W.		
Wade, Mary. On the bill (H. R. 2450) granting a pension to	5	567
Wagner, Melissa. On the bill (H. R. 225) granting a pension to	3	434
Walbridge, Holland & Brown. On the petition of	1	144
Walker, Mark. On the bill (S. 2) for the relief of	1	137
Walker, Dr. Mary E. On the petition of	1	237
Walker, Paul. On the bill (H. R. 2859) granting a pension to	3	467
Wallace, Thomas B. On the bill (S. 305) for the relief of	7	718
War On the bill (S. 744) to amend the one hundred and third Article of.	1	42
War, Secretary of. On the bill (S. 258) to authorize the detail of an officer of the Army to take command of an expedition fitted out to go in search of the records of Sir John Franklin's expedition	5	528
War, Secretary of. On the bill (S. 96) authorizing the delivery of four Napoleon guns, for the use of the Marion Artillery, to A. B. Rhett, &c.	5	529
War. On the bill (S. 763) to make an additional article of	6	638
Ward, P. L. On the petition of. (To accompany bill S. 1267)	1	247
Warner, Charles N. On the bill (S. 93) for the relief of	1	320
Warren, Henry. On the bill (S. 1254) for the relief of	5	551
Webb, George J. On the petition of. (To accompany bill S. 1698)	5	559
Wehe, Anna M. On the bill (H. R. 2608) granting a pension to	7	672
Weil, Benjamin, &c. On the bill (S. 1682) directing the Court of Claims to investigate the claims of	7	712
Weller, Frederick. On the petition of. (To accompany bill S. 1233)	1	225
Wellford, P. A. On the petition of	1	213
West, Eliza. On the petition of	6	596
West, Mary J. On the petition of. (To accompany bill S. 1743)	6	594
Wetmore, H. S. On the bill (S. 315) granting a pension to	1	73
White, Nicholas. On the bill (S. 83) for the relief of	6	574
White, Cornelia F. On the petition of. (To accompany bill S. 1564)	3	417
Whiting, Kate E. On the bill (S. 1239) granting a pension to	3	373
Whiting, W. B. On the bill (S. 751) granting a pension to	1	38
Whitney, Mattie S. On the bill (S. 1179) for the relief of	3	422
Wickwire, George W. On the bill (S. 873) for the relief of	3	361
Wilie, George. On the bill (S. 1071) granting a pension to	1	312
Williams, Henry. On the petition of	1	16
Williams, John L. On the bill (H. R. 3077) granting a pension to	5	543
Williams, Harry E. On the bill (H. R. 3262) granting a pension to	6	588
Williams, Henry. On the bill (S. 1201) granting a pension to	5	489
Williamson, Martha A. On the bill (S. 362) granting a pension to	1	20
Wilson, Robert P. On the petition of. (To accompany bill S. 1520)	3	394
Wilson, Henry. On the memorial of	5	510
Wilson, Hugh. On the petition of	1	238
Winder, W. A. On the bill (S. 1008) for the relief of	1	302
Wingate, David. On the bill (S. 1130) for the relief of	1	330

Subject.	Vol.	No.
Winnebago Indians. On bill S. 224, S. R. 4, and on bill S. 1124, for the relief of. (To accompany bill S. 323)	1	253
Winona. On the bill (S. 1192) to authorize the city of, to construct a bridge across the Mississippi River at	3	393
Wolff and Brown. On the petition of	1	166
Wollaston, Thomas P. On the bill (S. 1365) for the relief of	6	646
Wood, Mrs. Rose M. On the bill (S. 1471) granting a pension to	6	585
Woodward, George W. On the bill (H. R. 863) granting a pension to	7	679
Worthington, Thomas. To assemble a court of inquiry in the case of. (To accompany joint resolution S. R. 15, 1st session)	1	5
Worrell, James P. On the bill (S. 489) for the relief of	1	311
Wright, Crafts J. On the bill (S. 752) granting an increase of pension to	1	37
Wright, Mrs. S. A. On the bill (S. 730) for the relief of	6	655
Y.		
Yarnell, Peter. On the petition of	5	554
Yerger, Sallie, et al. On the petition of	1	157
Yondell, Lamsford B., &c. On the petition of. (To accompany bill S. 1004)	1	88
Yorktown. On the bill (H. R. 3966) relative to a monument at	3	372
Young, William. On the petition of	5	502
Z.		
Zimmerman, J. P., &c. On the bill (H. R. 2003) for the relief of	1	96

TABLE

OF THE

REPORTS MADE BY THE COMMITTEES

FOR THE

FIRST AND SECOND SESSIONS OF THE FORTY-SIXTH CONGRESS.

Subject.	Vol.	No.
COMMITTEE ON PRIVILEGES AND ELECTIONS.		
On the credentials of Hon. Charles H. Bell, claiming a seat in the Senate as a Senator from the State of New Hampshire. First session	.....	1
On the memorials relating to the election of Hon. John J. Ingalls, a Senator from the State of Kansas, by the legislature of that State	2	277
On the memorial of Henry M. Spofford, claiming to be entitled to the seat in the Senate from the State of Louisiana now occupied by William P. Kellogg	4	388
COMMITTEE ON FOREIGN RELATIONS.		
On the bill (S. 850) to provide a commission for the adjudication of damages to the Norwegian bark Atlantic by collision with the United States steam sloop-of-war Vandalia, and for payment of any award made by said commission	1	285
On the memorial of Sam C. Reid, on the behalf of the captain, owners, officers, and crew of the late United States private-armed brig General Armstrong, their heirs, executors, &c	3	347
On the bill (H. R. 270) for the relief of Charles Dougherty	3	449
COMMITTEE ON FINANCE.		
On the bill (S. 62) for the delivery to Samuel Lord, jr., receiver, of certain bonds now in the Treasury of the United States. First session	1	7
On the bill (S. 618) for the relief of Herman Holman and Crawford Fairbanks	1	50
On the bill (S. 324) for the relief of Somerville and Davis	1	51
On the bill (S. 17) for the relief of Albert Towle, postmaster at Beatrice, Nebraska	1	52
On the petition of Lamsford B. Yondell and others. (To accompany bill S. 1004)	1	88
On the bill (H. R. 2188) for the relief of Thomas Kearney	1	160
On the bill (H. R. 2649) to authorize the Comptroller of the Currency to issue $500 in new notes to the national bank at Pontiac, Ill., to replace a like amount which have never been signed	1	295
On the bill (H. R. 710) for the relief of Jackson Grubb, of McMinn County, Tennessee	1	325
On the petition of Thomas Hastie	1	327
On the bill (H. R. 393) for the relief of W. B. Farrar	3	374
On the bill (S. 436) for the relief of Charles Clinton	3	375
On the bill (H. R. 2802) for the relief of the owner of the bark Grapeshot	3	381
On the bill (S. 1353) for the relief of Naud G. Taylor & Co	3	416
On the bill (S. 1090) for the relief of John D. Defrees	3	428
On the bill (H. R. 2797) for the relief of certain citizens of Lynchburg, Va., &c	3	465
On the bill (H. R. 2567) for the relief of E. K. Snead and his sureties	3	677
On the bill (S. 1628) for the relief of Harry I. Todd	7	683
On the bill (S. 759) for the relief of G. W. Thompson	7	713

Subject.	Vol.	No.
COMMITTEE ON APPROPRIATIONS.		
On the bill (S. 1424) in relation to permanent and indefinite appropriations	1	334
COMMITTEE ON COMMERCE.		
On the bill (H. R. 2006) in relation to the importation of neat cattle for breeding purposes	1	335
On the bill (S. 856) extending the provisions of section 2997 of the Revised Statutes of the United States to the port of Omaha, in the State of Nebraska	3	389
On the bill (S. 828) extending the privileges of sections 2990 and 2997, inclusive, of the Revised Statutes of the United States, to the port of Saint Louis, in the State of Missouri	3	390
On the bill (S. 829) extending the provisions of section 2997 of the Revised Statutes of the United States to the ports of Kansas City and Saint Joseph, in the State of Missouri	3	392
On the bill (S. 1192) to authorize the city of Winona to construct, operate, and maintain a wagon-bridge across the Mississippi River at Winona	3	393
On the memorial of Merrick, Fowler and Esseltyne, and other business men and firms of Michigan	3	430
On the bill (S. 1610) asking for the erection of a light-house at the entrance of Little Traverse Harbor on Lake Michigan	3	477
On the bill (S. 1593) authorizing the Richmond and Southwestern Railway Company to build bridges across the Pamunky and Mattaponi Rivers	3	485
On the bill (S. 938) authorizing the Astoria and Winnemucca Railroad Company to construct bridges across Young's Bay or River and Lewis and Clarke's River	3	486
On the bill (S. 1723) authorizing the Secretary of the Treasury to issue an American register to the bark Annie Johnson	6	576
COMMITTEE ON MILITARY AFFAIRS.		
On the joint resolution (S. Res. 15) requiring the assembling of a court of inquiry in the case of Thomas Worthington. First session	1	5
On the bill (S. 243) to authorize the Secretary of War to release certain lands of the United States to the people of the State of New York. First session	1	9
On the bill (S. 53) making appropriation for the erection of suitable posts for the protection of the Rio Grande frontier	1	40
On the bill (S. 54) to enable the Secretary of War to purchase land to enlarge and protect the San Antonio Arsenal	1	41
On the bill (S. 744) to amend the one hundred and third Article of War.	1	42
On Executive Document No. 54. (To accompany bill S. 106)	1	43
On the bill (S. 105) for the relief of John Gault, jr	1	44
On the bill (S. 128) for the relief of Edward Shields and others	1	45
On the bill (S. 468) for the relief of John W. Cheeks	1	46
On the bill (S. 252) for the relief of Frank A. Page	1	47
On the bill (S. 480) for the relief of William P. Patrick	1	48
On the bill (S. 368) for the relief of Emanuel Klauser	1	49
On the bill (H. R. 2803) for the relief of Doddridge and Davis	1	53
On the bill (S. 296) for the relief of Edward P. Vollum	1	54
On the bill (S. 401) for the relief of Peter Meagher	1	55
On the bill (S. 137) to aid in the completion of the soldiers' and sailors' monument at Chalmette National Cemetery, Louisiana	1	56
On the memorial of the legislative assembly of Montana Territory for the establishment of a cavalry post at or near Henry's Lake in that Territory	1	57
On the resolution (S. Res. 8) correcting the military record of Wickliffe Cooper, deceased	1	67
On the bill (S. 332) authorizing the appointment of William English to a second lieutenancy in the Army	1	68

Subject.	Vol.	No.
On the bill (S. 188) correcting the military muster-in of James G. Howard	1	69
On the bill (S. 159) to provide for the sale of certain portions of the Fort Leavenworth military reservation	1	71
On the bill (S. 317) for the relief of Capt. J. B. Campbell	1	72
On the bill (S. 747) for the relief of Harlow L. Street	1	76
On the bill (S. 517) for the relief of Francis S. Davidson	1	77
On the bill (S. 731) for the relief of Maj. Junius T. Turner	1	78
On the bill (S. 198) for the relief of Capt. Bird L. Fletcher	1	79
On the memorial of the legislative assembly of the Territory of Montana in relation to military telegraph	1	85
On the joint memorial of the Nebraska legislature praying for the establishment of a military post	1	86
On the memorial of Alexander S. Brownlow	1	87
On the petition of William B. Guthrey	1	115
On the bill (S. 377) for the relief of Robert Ewing	1	122
On the bill (S. 1100) for the relief of Solomon Morris	1	126
On the bill (S. 426) for the relief of Patrick Sullivan	1	127
On the bill (S. 1-7) for the relief of Samuel Castleman	1	129
On the bill (S. 219) relating to certain brevet appointments	1	130
On the bill (S. 773) making appropriations for a military wagon-road from Niobrara, in Nebraska, to Fort Robinson, in said State	1	132
On the bill (S. 754) to authorize the relocation and improvement of the military wagon-road from Sidney, Nebraska, via Fort Robinson, &c.	1	133
On the bill (S. 194) for the disposal of Fort Harker military reservation	1	135
On the bill (S. 193) to provide for the disposition of the Fort Larned military reservation	1	136
On the bill (S. 2) for the relief of Mark Walker	1	137
On the bill (S. 556) to authorize the President to appoint Sergeant John Dolan a second lieutenant and place him on the retired list	1	138
On the bill (S. 80) to authorize the Secretary of the Treasury to ascertain and report to Congress the amount of money expended and indebtedness assumed by the State of Kansas in repelling invasions and suppressing Indian hostilities	1	139
On the bill (S. 50) for the relief of James A. Barr	1	140
On the memorial of Beverly Kennon	1	143
On the bill (S. 389) for the relief of Peter Phillips	1	145
On the bill (S. 390) authorizing the President to restore Capt. Dunbar R. Ransom to his former rank in the Army	1	146
On the bill (S. 388) for the relief of Jacob B. King	1	147
On the bill (S. 131) for the relief of John W. Chickering	1	148
On the bill (S. 214) for the relief of Robert W. Dunbar	1	150
On the bill (S. 223) to authorize the restoration of Calvin T. Speer to the rank of second lieutenant United States Army, and to pay him arrears of pay	1	151
On the bill (S. 533) providing for the retirement of First Lieut. Walter F. Halleck with the rank and pay of lieutenant-colonel	1	152
On the letter of the President of June 5, 1879, transmitting the proceedings of the board convened by his orders on the case of General Porter	1	158
Views of the minority on same. (Part 2)	1	158
Views of the minority on same. (Part 3)	1	158
On the bill (S. 56) for the relief of Edward Braden and J. W. Angus	1	162
On the bill (S. 965) for the relief of D. T. Kirby	1	193
On the bill (S. 592) for the relief of Redmond Tully	1	194
On the bill (S. 175) for the relief of P. P. G. Hall	1	195
On the bill (H. R. 1153) to restore to the public domain a part of the military reservation known as Fort Ripley reservation, in the State of Minnesota	1	196
On the bill (S. 952) for the relief of James Burk	1	197
On the bill (S. 290) authorizing the Secretary of War to issue wall-tents to the superintendent of the Virginia Military Institute	1	198
On the bill (S. 287) for the relief of the heirs of Charles B. Smith	1	199
On the petition of Mrs Flora A. Darling	1	200
On the bill (S. 876) for the relief of Edward Corselius and seven other persons	1	201

Subject.	Vol.	No.
On the bill (H. R. 2902) to place William Gaines, late ordnance sergeant United States Army, on the retired list	1	202
On the resolution (S. Res. 3) to authorize the Secretary of War to sell or lease to the Port Huron and Northwestern Railway Company a portion of the Fort Gratiot military reserve, &c	1	203
On the letter of the Secretary of War dated January 5, 1880. (To accompany bill, S. 1205)	1	204
On the bill (H. R. 2771) to construe an act granting condemned bronze cannon to the Soldiers' Union, of West Virginia	1	212
On the bill (S. 98) to provide for the settlement of accounts with certain railway companies therein named	1	239
On the bill (S. 474) for the relief of William McGovern	1	240
On the bill (S. 1075) to authorize Dr. Daniel M. Apple, of the United States Army, to receive pay for discharging the duties of physician to the Mescalero Apache Indian Agency, New Mexico	1	271
On the bill (S. 613) for the relief of Jacob D. Jones	1	273
On the bill (S. 944) for the relief of John Grierson	1	275
On a resolution of the Senate. (To accompany bill S. 1331, authorizing a retired list of non-commissioned officers, &c.)	1	283
On the bill (S. 1031) for the relief of Edward T. Benton	1	291
On the bill (S. 1087) for the relief of John F. Clancey	1	292
On the bill (S. 710) for the relief of Henry P. Seymour and others	1	293
On the bill (S. 853) to pay members of certain military organizations therein named	1	294
On the bill (S. 933) for the relief of Lieut. Edward S. Farrow	1	297
On the bill (H. R. 3783) to remove the charge of desertion from the military record of Jerry Foley	1	298
On the bill (H. R. 1305) abolishing the military reservations of Fort Abercrombie, Fort Seward, and Fort Ransom, all in the Territory of Dakota, &c	1	299
On the bill (S. 916) to authorize the United States to secure a title to certain military and timber reservations embraced within the limit of Fort Union military reservation	1	300
On the bill (S. 1008) for the relief of W. A. Winder	1	302
On the case of M. W. Saxton	1	304
On the bill (S. 313) for the relief of Jacob E. Burbank	1	308
On the bill (S. 489) for the relief of James P. Worrell	1	311
On the bill (S. 129) authorizing the restoration of the name of Thomas H. Carpenter to the rolls of the Army, and providing that he be placed on the list of retired officers	1	319
On the bill (S. 93) to authorize the restoration of Charles N. Warner to his former relative rank and position in the Army	1	320
On the bill (S. 664) for the relief of Lieut. Col. Schuyler Hamilton	1	321
On the bill (S. 821) fixing the compensation of enlisted men in the Signal Service, United States Army	1	322
On the petition of Perry E. Brocchus. (To accompany bill S. 1395)	1	323
On the bill (H. R. 3347) to authorize the Secretary of War to furnish four pieces of condemned ordnance for the soldiers' monument at Marietta, Ohio	1	328
On the bill (S. 1036) for the relief of Edmund T. Ryan	1	329
On the petition of Ernst Hein. (To accompany bill S. 1484)	3	369
On the bill (S. 1058) for the relief of Walker A. Newton	3	370
On the bill (H. R. 4439) to remove the disabilities of Sergeant P. P. Powell	3	371
On the bill (H. R. 3966) to carry into effect the resolution of Congress adopted on the 29th day of October, 1781, in regard to a monumental column at Yorktown, Virginia, and for other purposes	3	372
On the resolution (S. Res. 79) directing the Secretary of the Treasury to adjust and settle the accounts between the United States and the State of Florida	3	378
On the letter of the Secretary of War in answer to Senate resolution of March 4, 1878. (To accompany bill S. 1490)	3	382
On the petition of Robert P. Wilson. (To accompany bill S. 1520)	3	394
On the bill (S. 1154) for the relief of the legal representatives of William O. Redden	3	397

Subject.	Vol.	No.
On the letter of the Secretary of War, transmitting a communication from the Commissioners of the Soldiers' Home, in Washington, D. C. (To accompany bill S. 1550)	3	410
On the resolution (S. Res. 71) directing the restoration of the official letter-books of the executive department of the State of North Carolina	3	411
On the bill (S. 74) for the relief of Lieut. Frank P. Grass	3	412
On the bill (S. 390) authorizing the President to restore Capt. Dunbar R. Ransom	3	413
On the bill (S. 1135) authorizing the Secretary of War to adjust and settle accounts for arms with the State of South Carolina	3	415
On the bill (S. 131) for the relief of John W. Chickering	3	419
On the bill (S. 965) for the relief of D. T. Kirby	3	420
On the bill (S. 254) authorizing the President to place the name of Herman Biggs on the list of retired officers of the Army	3	424
On the bills (S. 192 and S. 577) to correct the dates of certain quartermasters of the United States Army, &c	3	429
Views of the minority on same. (Part 2)	3	429
On the bill (S. 160) for the relief of H. A. Myers	3	445
On the bill (S. 230) for the relief Capt. C. H. Briggs	3	446
On the bill (S. 504) to correct the military record of William H. Terry	3	447
On the bill (S. 229) for the relief of Thomas S. Bridges	3	448
On the petition of Jabez Matthews	3	456
On the petition of George W. Graham	3	458
On the bill (S. 1039) to authorize the restoration of William McGee to the rank of second lieutenant in the Army	3	459
On the bill (S. 147) to authorize the President to restore Bernard Reilly, junior, to his former rank in the Army	3	460
On the bill (S. 53[illegible]) for the relief of James P. W. Neill	3	461
On the bill (S. 904) for the relief of Maj. J. W. Candee	3	462
On the bill (S. 1124) for the relief of the heirs of D. C. Smith	3	466
On the bill (S. 1336) for the relief of John Reed	3	468
On the bill (H. R. 5894) to authorize the sale of Fort Logan, Montana Territory, and to establish a new post on the frontier	5	520
On the bill (H. R. 3351) for the relief of Rev. Paul E. Gillen	5	522
On the bill (S. 758) for the relief of James M. Bacon	5	524
On the bill (S. 149) for the relief of John Gotshall	5	525
On the bill (S. Res. 84) to furnish a bronze statue of General Daniel Morgan to the Cowpens centennial committee of Spartanburg, S. C	5	526
On the bill (S. 529) to provide for the better care and protection of quartermasters' supplies	5	527
On the bill (S. 258) authorizing the Secretary of War to detail an officer of the Army to take command of the expedition fitted out by Morrison and Brown to search for the records of Sir John Franklin's expedition, &c	5	528
On the bill (S. 96) to authorize the Secretary of War to deliver to A. B. Rhett, T. Pinckney Lowndes, and others four Napoleon guns, with caissons and harness, now at Greensborough, N. C., for use of the Marion Artillery, Charleston, S. C	5	529
On the bill (S. 1710) for the relief of William H. Gill	5	560
On the bill (S. 1488) to provide for promotions in the Army of the United States	5	561
On the bill (S. 1288) to authorize the President to restore D. M. Page to his former rank in the Army, and place him upon the retired list	5	562
On the bill (S. 1455) authorizing the President to appoint John W. Hoffman a second lieutenant in the United States Army	5	563
On the bill (H. R. 1128) for the relief of James N. Ruby	5	564
On the petition of William S. Hansell and Sons. (To accompany bill S. 176[illegible])	6	623
On the bill (S. 1645) for the relief of Lieut. John A. Payne	6	624
On the bill (S. 366) for the relief of David W. Stockstill	6	625
On the bill (S. 1660) for the relief of William P. Chambliss	6	626
On the bill (S. 1300) for the relief of Lowell A. Chamberlin	6	627
On the bill (S. 1311) for the relief of Edward Byrne	6	629
On the bill (S. 1150) for the relief of Carlile Boyd	6	630
On the bill (S. 1306) for the relief of Henry Starr	6	633

Subject.	Vol.	No.
On the bill (S. 763) to make an additional article of war	6	638
On the resolution (S. Res. 54) to furnish a bronze statue of Gen. Daniel Morgan to the Cowpens centennial committee of Spartanburg, S. C	6	640
On the bill (S. 1614) to regulate the promotion and fix the rank of line-officers of the Army	6	652
On the bill (S. 662) for the relief of William C. Spencer	6	654
On the bill (H. R. 3656) for the relief of John Hohstadt	6	653
On the bill (S. 1742) in relation to the Fort Sedgwick military reservation	6	661
On the bills (H. R. 952 and S. 295) for the relief of the Fifteenth and Sixteenth Regiments Missouri Cavalry Volunteers	7	681
On the bill (H. R. 6033) to pay Hiram Johnson and others certain sums of money, &c	7	725
COMMITTEE ON NAVAL AFFAIRS.		
On the bill (S. 125) to appoint Spruille Braden an ensign in the United States Navy. First session	1	4
On the bill (S. 286) for the relief of John S. Cunningham	1	149
On the petition of John Thornley. (To accompany bill S. 1206)	1	206
On the bill (S. 48) for promoting the efficiency of the corps of chaplains of the United States Navy	1	209
On the bill (S. 533) for the relief of Charles W. Abbot and W. W. Barry	1	215
On the bill (S. 522) relative to the distribution of prize-money	1	249
On the bill (S. 557) to authorize the payment of prize-money to the captors of the steamboat New Era No. 5	1	251
On the bill (S. 397) for the relief of certain naval officers	1	279
On the bill (S. 1130) for the relief of David Wingate	1	330
On the bill (H. R. 4606) authorizing the President to appoint Drs. Thomas Owens and William Martin	3	348
On the bill (S. 513) to amend section 1402 of the Revised Statutes relative to the appointment of assistant naval constructors	3	379
On the bill (S. 918) for the relief of certain volunteer officers of the Navy	3	380
On the bill (S. 826) for the relief of several persons impressed into the United States naval service	3	386
On the petition of Stephen A. McCarty. (To accompany S. Res. 96)	3	395
On the bill (S. 201) for the relief of Somerville Nicholson	3	402
On the bill (S. 626) for the relief of Albemarle and Chesapeake Canal Company	3	472
On the bill (S. 867) for the relief of Joseph G. Ayres	5	508
On the bill (H. R. 3534) to authorize and equip an expedition to the Arctic seas	5	512
On the bill (S. 542) for the relief of Benjamin C. Rampton	5	519
On the bill (S. 543) for the relief of Jabez Burchard	5	530
On the bill (H. R. 5625) relating to machinists in the Navy	5	536
On the bill (S. 1535) authorizing the closing of the accounts of the late Rear-Admiral A. H. Foote, U. S. N	5	541
On the bill (H. R. 4542) to reinstate R. W. Barkley as cadet midshipman in the United States Naval Academy at Annapolis	6	595
On the bill (S. 1210) for the relief of certain officers of the Navy	6	651
On the bill (H. R. 3983) to provide a construction fund for the Navy, and for other purposes	6	653
On the bill (H. R. 5627) to amend section 1486 of the Revised Statutes in order to preserve the meaning of the original law from which it was taken with reference to the rank of engineer officers, graduates of the Naval Academy	6	666
COMMITTEE ON THE JUDICIARY.		
On the petitions of Mrs. Virginia Taylor, executrix of Joseph Taylor, and Alexander Dounon, administrator of David Dunlap, petition of David B. Tennant, and the petition of Watson McGill and Company	1	156
On the petition of Sallie Yerger, Maggie J. Miller, et al	1	157
On the bill (S. 527) that all persons sentenced to imprisonment by the United States courts shall be confined in the prisons of the States wherein they were tried and convicted	1	161

Subject.	Vol.	No.
On the petitions of S. W. Venable, of Virginia, and Dunlap and Crawford, of Louisville, Ky	1	178
On the petition of P. A. Wellford	1	213
On the resolution of the House of Representatives for the appointment of a joint committee to investigate the present system of salaries, fees, and emoluments allowed officers of the United States courts, and for other purposes	1	258
On the bill (S. 280) for the relief of Ann Gregory	1	260
On the bill (S. 87) for the relief of John J. Key and W. G. M. Davis	1	280
On the bill (S. 967) to extend the jurisdiction of the northern district of Texas	1	332
On the bill (H. R. 3064) to remove the political disabilities of W. S. Maxwell	1	360
On the bills (S. 199 and H. R. 2377) for the relief of Catherine I. Gillis	3	396
On the bill (H. R. 1493) defining the duties of the reporter of the Supreme Court of the United States, fixing his compensation, &c	3	400
On the bill (S. 1376) for the relief of Ella Long	3	476
On the resolution of the Senate, passed on the 10th of June, 1880, to inquire, ascertain, and report which of the Pacific railroads are discriminating against the United States in favor of private shippers, &c	5	504
On the bill (S. 1682) directing the Court of Claims to investigate the claims of Benjamin Weil and La Abra Silver Mining Company	7	712
COMMITTEE ON POST-OFFICES AND POST-ROADS.		
On the bill (S. 516) to extend the time of special postal service until service can be obtained by advertisement. First session	1	3
On the bills (S. 44, S. 246, and S. 262) and the memorial of Harvey Spalding, for the relief of certain postmasters and late postmasters in the States therein named. (To accompany bill S. 903)	1	60
On the bill (S. 762) for the relief of Josiah H. Pillsbury	1	65
On the bill (H. R. 2003) for the relief of J. P. Zimmerman and H. P. Snow	1	96
On the bill (S. 843) providing for the delivery of dutiable articles in the mails and for indemnity for lost registered articles	1	100
On the bill (S. 411) for the relief of Charles W. Rogers	1	159
On the bill (S. 16) for the relief of Albert Towle	1	288
On the bills (S. 285 and S. 689) for the relief of Charles Collins	1	290
On the bill (S. 1209) to designate, classify, and fix the salaries of persons in the railway mail service	1	336
On the bill (S. 1103) for the relief of Manly B. McNilt	3	353
On the bill (S. 303) for the relief of George Hollingsworth	3	391
On the bill (S. 1202) for the relief of Hiram S. Town	3	406
On the bill (S. 1419) authorizing the Postmaster-General to adopt a uniform canceling-ink and stamping-pad	3	408
On the bill (S. 1020) for the relief of B. F. Rockafellow	6	618
On the bill (S. 983) for the relief of N. A. W. Tabor	6	619
On the bill (H. R. 2793) for the relief of Rachel Martin	6	643
On the bill (S. 72) for the relief of John B. Davis	6	649
On the bill (S. 60) for the relief of B. S. James	6	650
COMMITTEE ON PUBLIC LANDS.		
On the bill (S. 619) for the relief of certain actual settlers on the Kansas trust and diminished reserve lands in the State of Kansas	1	89
On the bill (S. 19) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants in the States described therein	1	121
On the bill (S. 316) for the relief of homestead settlers on the public lands	1	241
On the bill (S. 490) in relation to certain fees allowed registers and receivers	1	245
On the bill (S. 768) for the reclamation of arid and waste lands	1	250
On the bill (S. 769) to enable the State of Colorado to take lands in lieu of sixteenth and thirty-sixth sections, found to be mineral lands	1	256

Subject.	Vol.	No
On the bill (H. R. 2326) for the relief of settlers upon the Osage trust and diminished reserve lands in Kansas, and for other purposes	1	[illegible]
On the bill (H. R. 4244) for the establishment of titles in Hot Springs, and for other purposes	1	[illegible]
On the bill (H. R. 2359) for the relief of William D. Oyler	1	[illegible]
On the bill (S. 666) relating to the public lands of the United States	3	[illegible]
On the bill (S. 92) for the relief of Morgan's Louisiana and Texas Railroad and Steamship Company	3	[illegible]
On the bill (S. 989) for the relief of settlers on the public lands, and to provide for the repayment of certain fees and commissions paid on void entries of public lands	5	[illegible]
On the bill (H. R. 5502) granting to the Territory of Dakota certain lands in the county of Yankton, in said Territory, for an asylum for the insane, and for school purposes	6	[illegible]
On the bill (H. R. 2481) to establish an additional land district in the State of Kansas	6	[illegible]
On the bill (H. R. 3708) to grant to the State of Nevada lands in lieu of the sixteenth and thirty-sixth sections in said State	6	[illegible]
On the bill (H. R. 1064) granting to the corporate authorities of Council Bluffs, Iowa, for public uses, a certain lake or bayou, situated near said city	6	[illegible]
On the bill (S. 347) for the relief of John B. Nix	7	[illegible]
COMMITTEE ON PRIVATE LAND CLAIMS.		
On the bill (S. 310) for the relief of the heirs and legal representatives of Israel Dodge	3	[illegible]
On the bill (S. 890) relating to the equitable and legal rights of parties in possession of certain lands and improvements thereon in the State of California, and to provide jurisdiction to determine those rights	3	[illegible]
COMMITTEE ON INDIAN AFFAIRS.		
On the bill (S. 1195) to authorize the Secretary of the Interior to deposit certain funds in the United States Treasury in lieu of investments	1	[illegible]
On the bills (S. 224, S. Res. 4, S. 1124) for the relief of the Winnebago Indians, of Wisconsin. (To accompany bill S. 323)	1	[illegible]
On the bills (S. 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, and 927) for the relief of John Hensley and twelve other persons therein named	3	[illegible]
On the bill (S. 1254) for the relief of Henry Warren	5	[illegible]
On the bill (S. 1152) for the relief of Basil Moreland	6	[illegible]
On the bill (S. 451) to reimburse the Creek orphan fund	6	[illegible]
COMMITTEE ON PENSIONS.		
On the bill (S. 446) granting a pension to Jefferson Kinder. First session	1	
On the petition of Samuel M. Thatcher	1	
On the petition of Zenas Herrick	1	
On the petition of Squire Moore	1	
On the petition of Phebe A. Grivet	1	
On the petition of David H. Meyers	1	
On the petition of Amelia B. Parsons	1	
On the petition of Henry Williams	1	
On the petition of Margaret Cahill	1	
On the petition of Jacob S. Hunt	1	
On the petition of James Rose	1	
On the bill (S. 362) granting a pension to Amos Williamson	1	
On the bill (S. 260) granting a pension to Nathaniel Aiken	1	
On the bill (S. 184) granting a pension to Robert L. Hancock	1	
On the bill (S. 535) granting a pension to W. H. Miller	1	
On the bill (S. 499) granting a pension to Lee R. Seaton	1	
On the bill (S. 154) granting a pension to John Smith	1	
On the bill (S. 277) granting a pension to A. L. Anderson	1	
On the bill (S. 411) granting a pension to John H. Ferrell	1	
On the bill (S. 477) for the relief of Gen. Ward B. Burnett	1	

Subject.	Vol.	No.
On the bill (S. 427) granting a pension to Frank Donohue	1	29
On the bill (S. 552) granting a pension to Marshall D. Ellis	1	30
On the bill (S. 336) granting a pension to Philip Braunstetter	1	31
On the bill (S. 342) granting a pension to Charles Reed	1	32
On the bill (S. 341) granting a pension to Peter Getert	1	33
On the bill (S. 376) granting a pension to Hiram Johnson	1	34
On the bill (S. 475) granting a pension to Henry J. Churchman	1	35
On the bill (S. 367) granting an increase of pension to Isabel L. and Isabel M. Evans	1	36
On the petition of Crafts J. Wright	1	37
On the petition of W. B. Whiting	1	38
On the bill (S. 139) granting a pension to Henry A. Armstrong	1	66
On the bill (S. 315) granting a pension to Henry Stanley Wetmore	1	73
On the bill (S. 35) granting a pension to Herman Netterfield	1	74
On the bill (S. 815) granting increase of pensions to certain pensioned soldiers and sailors who are entirely helpless from injuries received or disease contracted while in the United States service	1	75
On the petition of Mrs. Thomas Hendrickson	1	80
On the petition of Hannah L. Stearns	1	81
On the petition of certain citizens of Carbon County, Pennsylvania	1	82
On the petition of Isaac Vansant	1	83
On the petition of James Preston	1	84
On the bill (S. 578) granting an increase of pension to Samuel B. Davis	1	91
On the bill (S. 609) granting a pension to James E. Hargrove	1	101
On the bill (S. 663) granting a pension to John J. Fritschy	1	102
On the petition of Joseph F. Thomasson	1	105
On the petition of James King	1	106
On the petition of Susan Jeffords	1	107
On the bill (S. 617) granting an increase of pension to William H. Hale	1	108
On the bill (S. 620) granting a pension to Jacob Nix	1	109
On the bill (S. 582) granting a pension to John M. Snyder	1	110
On the bill (S. 991) relative to claim of David H. Meyers	1	111
On the petition of Wallace Pattee	1	112
On the petition of Mrs. Virginia Grove	1	113
On the petition of John Flynn	1	114
On the bill (S. 335) granting a pension to Simeon Crain	1	116
On the petition of Abraham M. McCullom	1	117
On the petition of George R. Baum	1	118
On the bill (S. 680) granting an increase of pension to H. Binnamon	1	119
On the bill (S. 870) granting a pension to Louis Christopher Fiedemann	1	120
On the bill (S. 39) granting an increase of pension to James H. Reeve	1	123
On the bill (S. 855) for the relief of Narcissa Gibson	1	168
On the bill (S. 702) granting a pension to Mary A. Tindall	1	169
On the bill (S. 956) granting a pension to John Hubbell	1	170
On the bill (S. 970) for the relief of Thomas Hugh Rothrock	1	171
On the petition of Milton L. Sparr	1	172
On the bill (S. 1046) granting a pension to the widow of Thomas T. Thornburg	1	173
On the bill (S. 797) granting a pension to Henry C. Smith	1	174
On the bill (S. 551) granting a pension to James O'Connor	1	175
On the bill (S. 132) granting a pension to Fannie Lull	1	176
On the bill (S. 337) granting a pension to James H. Poland	1	177
On the petition of Joseph B. Shollenburger	1	179
On the petition of Mrs. Emma M. Moore	1	180
On the petition of Margaret Miller	1	181
On the petition of citizens of Anderson County, Kansas	1	182
On the petition of Solomon S. Robinson	1	183
On the petition of Armstead Goodlow	1	184
On the memorial of Harriet Flagg	1	185
On the bill (S. 208) granting a pension to Archibald and John Nelson	1	187
On the bill (S. 382) granting a pension to Ellen W. P. Carter	1	188
On the bill (S. 338) granting a pension to Dederick Blanck	1	189
On the memorial of Theodore L. Sayre and others	1	190
On the petition of John Snider	1	191
On the petition of Jesse F. Phares	1	192

Subject.	Vol.	N
On the bill (S. 950) granting arrears of pension to Nancy Eubank	1	
On the bill (S. 497) granting a pension to J. Clinton De Witt	1	
On the petition of William C. Shimoneck	1	
On the bill (S. 1097) granting a pension to Susan Fox	1	
On the bill (S. 1051) granting an increase of pension to Stephen D. Smith	1	
On the bill (S. 526) granting a pension to Esther E. Lieurance	1	
On the petition of A. A. Sims	1	
On the bill (S. 1188) granting arrears of pension to Mrs. Emma M. Moore	1	
On the bill (S. 534) granting a pension to Carolina Trekell	1	
On the bill (S. 370) granting an increase of pension to James W. Doxie	1	
On the petition of Elizabeth Sutherland	1	
On the petition of Frederick Weller	1	
On the bill (S. 691) for the relief of Jared Gardner	1	
On the bill (S. 955) granting a pension to William S. Fultz	1	
On the bill (S. 1185) granting a pension to Jesse F. Phares	1	
On the bill (S. 1186) granting a pension to John Snider	1	
On the petition of Captain Thornton Smith	1	
On the bill (S. 982) granting a pension to Spencer W. Tryon	1	
On the bill (S. 801) granting a pension to Martha E. Brown	1	
On the bill (S. 810) for the relief of the estate of Thomas Jones	1	
On the bill (S. 639) granting a pension to John G. McDonald	1	
On the bill (S. 1017) granting a pension to Jerry Robinson	1	
On the bill (S. 591) granting a pension to Nicholas H. Kelley	1	
On the petition of Dr. Mary E. Walker	1	
On the petition of Hugh Wilson	1	
On the bill (S. 957) granting a pension to Charles Reed	1	
On the bill (S. 181) restoring to the pension rolls the name of Mary Burr	1	
On the bill (S. 363) granting an increase of pension to James C. McCarty	1	
On the bill (S. 637) entitled "A bill granting an increase of pension to Lucien Kilbourne."	1	
On the bill (S. 899) granting a pension to William O. Morgan	1	
On the bill (S. 1072) granting a pension to Arthur W. Irving	1	
On the bill (S. 848) granting a pension to Frederick R. Bruner	1	
On the bill (S. 985) granting a pension to Mrs. Mary Leggett	1	
On the bill (S. 235) granting an increase of pension to Egbert Olcott	1	
On the petition of George Nichols and others	1	
On the petition of sundry citizens of Iowa	1	
On the petition of John Davison	1	
On the bill (S. 1180) granting a pension to Elizabeth Wolf	1	
On the bill (S. 1071) granting a pension to George Wilie	1	
On the petition of Martin J. Deponai	1	
On the petition of Reese Lammey	1	
On the bill (S. 251) granting increase of pension to Margaret Mills	1	
On the bill (S. 183) granting a pension to Hugh Gallagher	1	
On the petition of Daniel Houlihan	1	
On the bill (S. 742) for the relief of Mary A. Lord	1	
On the bill (S. 1235) granting a pension to Susan Smallwood	1	
On the petition of Hon. G. B. Thomas	1	
On the bill (S. 358) granting a pension to Nelson J. Roosevelt	1	
On the bill (S. 748) granting a pension to Thomas E. Brawner	1	
On the bill (S. 1166) granting a pension to James H. Stevens	3	
On the bill (S. 602) to restore to the pension rolls the name of Thomas W. McCaffrey	3	
On the bill (S. 1113) granting a pension to Peter K. Morgan	3	
On the petition of Anne R. Voorhees	3	
On the petition of Dr. P. F. Reuss	3	
On the bill (S. 963) granting a pension to Theodore Rauthe	3	
On the bill (S. 1361) granting an increase of pension to Elisha F. Rogers	3	
On the bill (S. 1333) granting arrears of pension to Mrs. Maria A. Rosseau	3	
On the bill (S. 1143) granting a pension to Mrs. Mary Allison	3	

Subject.	Vol.	No.
e bill (S. 1234) amending an act entitled "An act granting a pen- to William R. Browne."	3	358
e bill (S. 873) for the relief of George W. Wickwire	3	361
e bill (S. 339) granting a pension to A. W. Richards	3	362
e bill (S. 975) granting a pension to James O. McKenna	3	363
e bill (S. 898) granting a pension to Mary A. Davis	3	364
e bill (S. 1070) granting a pension to Jacob H. Eppler	3	365
e bill (H. R. 1597) granting a pension to Patsey Davenport	3	366
e petition of Moses Coffey	3	367
e petition of Thomas McGeehan	3	368
e bill (S. 1239) granting a pension to Mrs. Kate E. Whiting	3	373
e petition of Mrs. Brittania W. Kennon	3	387
e bill (S. 545) granting a pension to Elizabeth H. Pierce	3	414
e petition of Mrs. Cornelia F. White	3	417
e bill (S. 496) providing for examination and adjudication of pen- claims	3	418
e bill (S. 1216) granting a pension to Elisha M. Luckett	3	431
e bill (S. 1403) granting increase of pension to Samuel H. Johnston	3	432
e bill (H. R. 1465) granting a pension to Levi Leedom	3	433
e bill (H. R. 225) granting a pension to Melissa Wagner	3	434
e bill (S. 672) granting a pension to Abraham F. Farrar	3	435
e bill (H. R. 254) granting an increase of pension to James M. eland	3	436
e bill (S. 1295) granting a pension to Lewis J. Blair	3	437
e petition of Benedict J. O. Driscoll	3	438
e bill (S. 148) granting an increase of pension to J. Jackson Purman	3	439
e bill (S. 809) for the relief of Duncan M. V. Stuart	3	442
e bill (S. 1077) granting a pension to William J. Elgie	3	443
e bill (S. 340) granting a pension to Thomas J. Anthony	3	444
e petition of Maxwell Carroll	3	457
e petition of Lucy E. Mayhew	3	463
e petition of Nehemiah Ford	3	464
e bill (H. R. 2-59) granting a pension to Paul Walker	3	467
ie bill (H. R. 253) increasing the pension of Capt. Samuel C. oyer	3	469
e bill (S. 1305) granting a pension to Mrs. Emma Schell	3	474
e bill (H. R. 2857) granting a pension to Joseph Showman	3	478
e bill (S. 1465) granting a pension to Wm. H. H. Anderson	3	479
e bill (H. R. 1460) granting a pension to James P. Sayer	3	480
e bill (H. R. 740) granting a pension to Martha J. Robinson	3	481
e bill (H. R. 2860) granting a pension to Thomas A. Vaughn	3	4-2
e bill (S. 1411) granting a pension to James Morgan	3	483
e bill (S. 1363) granting a pension to Eli Cooprider	3	4-4
e bill (S. 1248) granting a pension to Rebecca T. Scott	3	487
e bill (S. 1307) granting a pension to L. C. French	5	4-8
e bill (S. 1201) granting a pension to Henry Williams	5	4-9
e bill (H. R. 2041) granting a pension to James Aaron	5	490
e bill (H. R. 2855) granting a pension to Rachael J. Reber	5	491
e petition of Horace S. Spear	5	492
e petition and bill of Thomas Burroughs	5	493
ie petition of Samuel B. Brightman	5	494
ie petition of Elizabeth Vernor Henry	5	495
ie bill (H. R. 3261) granting a pension to Elizabeth Dougherty	5	498
ie bills (S. 1452 and H. R. 11) granting a pension to Agnes Fairly	5	499
ie bill (H. R. 1-06) granting a pension to Michael Lingenfelter	5	500
ie bill (H. R. 3264) granting a pension to Abner Hoopes	5	501
ie petition of P. P. Lyttle and others	5	502
ie bill (H. R. 4759) granting increase of pension to Richardson K. rd	5	503
ie bill (S. 1249) granting a pension to Sophia Brooke Taylor	5	507
ie memorial of Henrietta Wilson	5	510
ie petition of Levi Anderson	5	514
ie bill (S. 851) granting a pension to Martha A. Lachman	5	515
ie bill (S. 1006) for the relief of Andrew T. McReynolds	5	516
ie petition of Anna Dennis	5	517

Subject.	Vol.
On the petition of Henry Slaughter	5
On the bill (S. 1515) granting a pension to Hiram C. Stone	5
On the memorial of the legislature of the State of Minnesota	5
On the resolution (S. Res. 59) repealing part of section 4836 of the Revised Statutes	5
On the bill (S. 1272) to amend an act entitled "An act to increase pensions in certain cases."	5
On the bill (S. 1566) to regulate fees of attorneys in pension cases	5
On the bill (S. 1535) granting an increase of pension to Rebecca E. Haskin	5
On the bill (H. R. 2553) granting a pension to Elizabeth Aults	5
On the bill (H. R. 3077) granting a pension to John L. Williams	5
On the petition of Ann Fletcher	5
On the petition of Charles W. Tibbetts	5
On the claim of Dennis Smith	5
On the petition of Sarah A. Alexander	5
On the bill (S. 1323) granting a pension to Phineas Gano	5
On the bill (S. 1464) granting a pension to George W. Staplin	5
On the bill (S. 21) granting a pension to Louisa Bainbridge	5
On the bill (H. R. 2407) granting a pension to Belinda Curtis	5
On the petition of Peter Yarnell	5
On the petition of William A Rogers	5
On the petition of Martin Price	5
On the bill (S. 1432) granting a pension to Angus McAuley	5
On the petition of Mathew O'Reagan	5
On the petition of George J. Webb	5
On the bill (S. 1169) granting a pension to John Harner	5
On the bill (H. R. 3361) granting an increase of pension to Herman Baldwin	5
On the bill (H. R. 2450) granting a pension to Mary Wade	5
On the petition of Mrs. Hannah Mackey	5
On the bill (S. 913) granting a pension to Thomas P. Johnson	5
On the bill (S. 3) granting a pension to Elizabeth Wirt Goldsborough	6
On the bill (S. 1652) granting a pension to the minor children of Lawrence Burgess	6
On the bill (S. 1620) granting an increase of pension to Mrs. Sallie A. Palmer	6
On the bill (H. R. 3260) granting a pension to Eliza McConnell	6
On the petition of Lelia E. McCauley	6
On the petition of William Stockwell	6
On the bill (H. R. 229) granting a pension to Thomas Lowry	6
On the bill (S. 1715) granting a pension to Thomas J. Mackey	6
On the bill (S. 1471) granting a pension to Mrs. Rose M. Wood	6
On the bill (H. R. 2864) granting an increase of pension to Isaiah W. Bunker	6
On the bill (S. 1133) granting a pension to Michael Hayne	6
On the bill (H. R. 3262) granting a pension to Harry E. Williams	6
On the bill (H. R. 2474) granting an increase of pension to Thomas Riley	6
On the bill (H. R. 2039) granting a pension to Jacob J. Smith	6
On the bill (S. 1178) for the relief of Jason C. Bradeen	6
On the petition of Mrs. Lizzie Wright Owen	6
On the petition of H. P. Robinson	6
On the petition of Mary J. West	6
On the petition of Eliza West	6
On the bill (S. 293) granting a pension to Joseph Potts	6
On the bill (S. 576) granting a pension to Phoebe Meech	6
On the bill (S. 1584) granting a pension to Margaret Costello	6
On the bill (S. 1654) granting a pension to Thomas S. Cogley	6
On the bill (H. R. 2643) granting a pension to Mary Meighan	6
On the bill (S. 1706) granting a pension to Samuel Pollock	6
On the bill (H. R. 4264) granting a pension to Judith Brown	6
On the bill (S. 635) granting a pension to Emery Bowen	6
On the bill (H. R. 3557) granting a pension to Peter Julius	6
On the bill (H. R. 2467) granting a pension to Daniel D. Long	6
On the bill (S. 1531) granting a pension to Mary and Annie Plunkett	6

Subject.	Vol.	No.
On the bill (H. R. 2468) granting a pension to Henry H. Fisher	6	611
On the bill (S. 1754) granting a pension to W. J. Morris	6	612
On the bill (H. R. 3021) granting a pension to Eliza M. Frick	6	613
On the petition of Stephen Durkee	6	614
On the petition of Lindsay M. Shumaker	6	615
On the petition of Mrs. Elizabeth S. M. Finley	6	616
On the bill (H. R. 5542) for increase of pension to Samuel Baker	6	628
On the bill (S. 733) granting an increase of pension to William Shelly	6	631
On the bill (H. R. 2854) granting a pension to Noah Caton	6	632
On the bill (S. 1517) granting an increase of pension to Stephen Fairchild	6	634
On the bill (H. R. 2862) granting an increase of pension to John H. Black	6	635
On the bill (H. R. 1463) granting an increase of pension to Edward H. Lieb	6	636
On the bill (S. 1546) granting a pension to P. B. Perry	6	637
On the petition of John Cox	6	641
On the petition of Julia M. Hudson	6	642
On the bill (H. R. 2290) granting a pension to William Bowman	6	662
On the bill (S. 182) granting a pension to Mary A. Shemelia	6	663
On the bill (S. 1114) granting a pension to Luman Case	6	664
On the bill (S. 440) granting a pension to David L. Payne	6	665
On the bill (H. R. 753) granting a pension to Thomas J. Jackson	6	667
On the bill (H. R. 3544) granting a pension to John Fisher	6	668
On the bill (S. 1084) granting arrears of pension to the heirs of Captain J. H. Dent	6	669
On the bill (S. 992) granting a pension to Mrs. Julia Gardner Tyler	7	671
On the bill (H. R. 2608) granting a pension to Anna M. Wehe	7	672
On the bill (H. R. 745) granting a pension to Colby Hornaday	7	673
On the petition of Mrs. Ann M. Paulding	7	674
On the bills (S. 732 and H. R. 5803) granting a pension to George W. Leamy	7	675
On the bill (H. R. 4887) granting a pension to Rosalie Louis	7	678
On the bill (H. R. 863) granting a pension to George W. Woodward	7	679
On the bill (S. 465) granting an increase of pension to George Smith	7	680
On the petition of Mary E. Shepley	7	682
On the petition of Joseph and Catharine Boll	7	684
On the petition of Jane E. Slamm	7	685
On the bill (S. 1334) granting a pension to Charles H. Frank	7	686
On the bill (H. R. 751) granting a pension to Harvey Burk	7	687
On the bill (S. 1318) granting a pension to Seymour Colby	7	688
On the bill (H. R. 1890) granting a pension to Ellen Gillespie	7	689
On the bill (H. R. 3017) granting a pension to William Bryant	7	690
On the petition of Army officers	7	691
On the petition of Mary E. Ambrester	7	692
On the petition of Margaret Longshaw	7	694
On the petition of Cecil Clay	7	695
On the bill (H. R. 2407) granting a pension to Belinda Curtis	7	696
On the bill (S. 1521) granting a pension to David W. Combs	7	697
On the bill (S. 365) granting a pension to Hardie Hogan	7	698
On the petition of Margaret S. Heintzelman	7	699
On the bill (S. 1038) granting an increase of pension to Edward Howard	7	700
On the bill (S. 972) granting an increase of pension to Mrs. Anna I. Guest	7	701
On the bill (S. 1676) granting an increase of pension to Saint Clair A. Mulholland	7	702
On the petition of Ailsey E. Murphy	7	703
On the bill (S. 1615) granting a pension to Henry Schrœder	7	704
On the bill (H. R. 2120) granting a pension to Bernard Brady	7	705
On the bill (H. R. 1938) granting a pension to John H. McBrayer	7	706
On the bill (H. R. 3100) granting relief to Samuel B. Hutchison	7	707
On the bill (S. 1454) granting a pension to Catharine Harris	7	709
On the bill (H. R. 591) granting a pension to Eliza K. Ashby	7	722
On the bill (S. 1808) granting a pension to Earl S. Rathburn	7	721
On the bill (H. R. 2603) granting a pension to Masach Finn	7	719
On the bill (H. R. 3980) granting a pension to Mrs. Della Benner	7	715

Subject.	Vol.
COMMITTEE ON REVOLUTIONARY CLAIMS.	
On the bill (S. 205) granting arrears of pension to Abigail S. Tilton	7
COMMITTEE on CLAIMS.	
On the bill (S. 625) for the relief of the Farmers' and Merchants' Bank, Paris, Texas. First session	1
On the bill (S. 103) for the relief of Rosa Vertner Jeffrey	1
On the bill (S. 22) for the relief of Theophilus P. Chandler a	1
On the bill (S. 307) for the relief of L. C. Cantwell	1
On the bill (S. 548) for the relief of John C. Comfort	1
On the bill (S. 212) for the relief of John M. Dorsey and William F. Shepard	1
On the bill (S. 24) for the relief of John S. Logan	1
On the bill (S. 46) for the relief of Frank Rinquet	1
On the bill (S. 52) for the relief of John N. Reed	1
On the bill (S. 298) for the relief of Van B. Bowers	1
On the bill (S. 455) for the relief of Reuben S. Jones	1
On the bill (S. 76) for the relief of M. F. Clark	1
On the bill (S. 185) for the relief of Gibbes & Co	1
On the petition of William Lougnecker	1
On the memorial of Abby A. Ham and Elizabeth H. Brown	1
On the petition of George W. J. Crawford	1
On the bill (S. 108[illegible]) for the relief of Claude H. Masten, &c	1
On the bill (S. 707) for the relief of William W. Ross	1
On the bill (S. 47) for the relief of James Hunt	1
On the bill (S. 695) for the relief of Michael Granery, &c	1
On the bill (S. 180) for the relief of George V. Hebb	1
On the bill (S. 687) for the relief of C. Bohn	1
On the petition of Walbridge, Holland, and Brown	1
On the bill (S. 996) for the relief of Monroe Donoho	1
On the bill (S. 715) for the relief of N. Boyden	1
On the bill (S. 33) for the relief of Joseph R. Shannon	1
On the bill (S. 66) for the relief of Hortensia H. Cook	1
On the bill (S. 831) for the relief of certain employés of the United States Government in the District of Columbia	1
On the bill (S. 299) for the relief of Joseph N. Lewis	1
On the petition of Wolfe and Brown	1
On the petition of Isaac F. Moore	1
On the bill (S. 532) for the relief of Eliza Howard Powers	1
On the petition of William H. Davis. (To accompany bill S. 1208)	1
On the petition of Hannah Roche	1
On the petition of Ben Holladay. (To accompany bill S. 231)	1
On the bill (S. 459) for the relief of Elizabeth B. Custer	1
On the petition of P. L. Ward. (To accompany bill S. 1267)	1
On the bill (H. R. 2269) for the relief of Calvin Bronson	1
On the petition of James Vance and William Vance. (To accompany bill S. 1268)	1
On the memorial of John Beeson	1
On the petition of Eva V. Busby and W. W. Busby	1
On the bill (S. 549) for the relief of Samuel I. Gustin	1
On the bill (S. 111) for the relief of the city of Macon, Ga	1
On the bill (S. 533) for the relief of Elisha Bass	1
On the bill (S. 281) for the relief of Emma G. Nelson, executrix, and Aaron H. Nelson, executor, &c	1
On the bill (S. 374) for the relief of James A Heard	1
On the bill (S. 1059) for the relief of George D. C. Hibbs	1
On the bill (S. 476) for the relief of Thomas M. Simmons	1
On the petition of Arthur Connell	1
On the bill (S. 259) for the relief of Reuben H. Plass	1
On the bill (S. 170) for the relief of Tolley and Eaton	1
On the bill (S. 270) for the relief of Jeremiah C. Conklin	1
On the bill (S. 500) for the relief of William L. Adams	1
On the bill (S. 894) for the relief of certain employés of the United States courts for the District of Columbia	1

Subject.	Vol.	No.
On the bill (S. 89) for the relief of John Adams and others	1	331
On the petition of Anson Dart	1	333
On the bill (S. 200) for the relief of Nathaniel P. Harben	3	350
On the petition of Sarah S. Flagg	3	351
On the petition of Ann Barnes	3	352
On the bill (S. 816) for the relief of Theodore F. Hartridge and William G. Christopher, sureties, &c	3	377
On the bill (S. 814) for the relief of Henry M. Shreve	3	399
On the bill (S. 1322) for the relief of Thomas J. League	3	401
On the bill (S. 1109) for the relief of Anthony Lawson	3	403
On the bill (S. 896) for the relief of Cyprian T. Jenkins	3	404
On the bill (S. 627) for the relief of workmen employed in the construction of Poverty Island light-house, Lake Michigan	3	405
On the bill (S. 1340) for the relief of Charles E. Gunn	3	409
On the bill (S. 692) for the relief of Robert A. McMurry	3	421
On the bill (S. 1179) for the relief of Mattie S. Whitney	3	422
On the bill (S. 1063) for the relief of William J. Gamble	3	423
On the bill (S. 1278) for the relief of Lewis D. Allen	3	425
On the bill (S. 677) for the relief of E. Troisgros	3	426
On the bill (S. 1579) for the relief of B. B. Connor	3	441
On the bill (S. 326) for the relief of Henry F. Lines	3	450
On the bill (S. 1276) for the relief of Charles B. Phillipps	3	451
On the bill (H. R. 2270) to pay for expert service relating to the metric system rendered to the Forty-fifth Congress	3	452
On the petition of Samuel Evans	3	453
On the petition of George W. Saulpaw. (To accompany bill S. 1606)	3	454
On the memorial of Samuel D. Lecompte	3	470
On the bill (H. R. 2262) for the relief of Juliet Leef, &c	3	471
Views of the minority on same. Part 2	3	471
On the bill (S. 1257) for the relief of J. H. Alexander	3	473
On the bill (S. 1291) for the relief of Charles W. Denton	3	475
On the bill (S. 1203) for the relief of Margaret B. Franks	5	505
On the bill (S. 757) for the relief of Gallus Kerchner	5	506
On the petition of John Pattee	5	509
On the bill (S. 1476) for the relief of the heirs of William Selden, deceased	5	511
On the bill (S. 1478) for the relief of Lizzie D. Clarke	5	513
On the bill (S. 1545) for the relief of J. W. Burbridge & Co. and Robert H. Montgomery	5	531
On the petition of George E. Payne. (To accompany bill S. 1720)	5	571
On the bill (S. 445) for the relief of Joseph B. Campbell	6	573
On the bill (S. 83) for the relief of Nicholas White	6	574
On the petition of Jeanette S. Johnson	6	597
On the memorial of Carl Epping and wife and C. B. Phillips	6	598
On the bill (S. 364) for the relief of Samuel A. Lowe	6	644
On the bill (S. 1325) for the relief of Joseph C. Irwin	6	645
On the bill (S. 1365) for the relief of Thomas P. Wollaston	6	646
On the petition of Mrs. Mary Hopperton	6	647
On the memorial of Mrs. Ellen Call Long. (To accompany bill S. 1779)	6	648
On the bill (S. 1621) in addition to an act for the relief of O. B. and O. S. Latham, approved March 3, 1863	6	659
On the bill (S. 1735) for the relief of Benjamin Babb and others	7	711
On the bill (S. 1181) for the relief of Dodd, Brown & Co	7	714
On the bill (S. 305) for the relief of Thomas B. Wallace	7	718
On the petition of Henry P. Rolfe. (To accompany bill, S. 1839)	7	720
COMMITTEE ON THE DISTRICT OF COLUMBIA.		
On a resolution of the Senate, adopted June 6, 1879, in relation to the supply of pure water for the District of Columbia	1	39
On the bill (S. 1125) to provide for building a market house on square 446 in the city of Washington, District of Columbia	1	296
On the bill (H. R. 1381) to authorize the construction of a bridge across the Potomac River, at or near Georgetown, District of Columbia	3	383
On the bill (S. 1681) to provide for funding the 8 per cent. improvement certificates of the District of Columbia	6	621

Subject.	Vol.	No.
COMMITTEE ON PATENTS.		
On the petition of C. J. E. Thompson	1	104
On the bill (H. R. 2518) for the relief of Nelson Lyon and Jeremiah S. James	1	262
On the petition of Herman Miller. (To accompany bill S. 981)	1	263
On the petition of Ira Gill. (To accompany bill S. 846)	3	384
On the bill (S. 915) for the relief of Edgar Huson	3	385
On the bill (S. 1082) for the relief of Smith E. G. Rawson	5	496
On the bill (S. 960) for the relief of Marietta Mattison	5	540
On the petition of Helen Francis Manville	5	569
On the memorial of the heirs of Daniel Hayward	6	617
On the petition of Martha J. Coston. (To accompany bill S. 1761)	6	622
On the bill (S. 730) for the relief of Mrs. S. A. Wright	6	655
On the bill (H. R. 2019) to authorize the extension of the patent of Daniel M. Cook	6	660
COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS.		
On the resolution of the Senate, adopted January 15, 1880, in relation to the rooms in the Capitol lately occupied by the Court of Claims	1	310
On the bill (S. 464) for the erection of a public building at Montgomery, Ala	1	314
COMMITTEE ON TERRITORIES.		
On the bill (H. R. 5048) relating to justices of the peace in the Territories	3	455
On the bill (H. R. 5203) to provide for the reapportionment of the members of the legislatures of the Territories of Montana, Idaho, and Wyoming	5	538
COMMITTEE ON RAILROADS.		
On the bill (H. R. 55) granting a right of way across Water Shop's Pond, in Springfield, Mass., to the Springfield and New London Railroad Company	1	103
On the bill (S. 115) authorizing the Secretary of War to contract with the San Antonio and Mexican Border Railway Company	7	716
On the resolution (S. Res. 85) for the relief of the Kansas City, Fort Scott and Gulf Railroad Company	7	717
COMMITTEE ON THE REVISION OF THE LAWS.		
On the resolution (S. Res. 19) to provide for the publication and distribution of a supplement to the Revised Statutes, first session	1	[illegible]
COMMITTEE ON EDUCATION AND LABOR.		
On the bills (S. 792 and 865) which propose to distribute certain unclaimed pay and bounty moneys belonging to colored soldiers and now in the Treasury of the United States	3	[illegible]
COMMITTEE ON CIVIL SERVICE AND RETRENCHMENT.		
On the resolutions of the Senate of the 29th of May and of the 18th of June, 1879. (To accompany bill S. 1366)	2	[illegible]
Views of minority. (To accompany bill S. 1366.) Part 2	2	[illegible]
SELECT COMMITTEE TO INVESTIGATE THE FINANCE REPORTS, BOOKS, AND ACCOUNTS OF THE TREASURY DEPARTMENT.		
On the resolution of the Senate adopted November 19, 1877	5	539
SELECT COMMITTEE TO MAKE PROVISIONS FOR TAKING THE TENTH CENSUS.		
On the message of the President in relation to the removals of supervisors of the census and the appointments to fill vacancies caused by such removals	7	723

Subject.	Vol.	No.
SELECT COMMITTEE TO EXAMINE INTO THE CIRCUMSTANCES CONNECTED WITH THE REMOVAL OF THE NORTHERN CHEYENNES FROM THE SIOUX RESERVATION TO THE INDIAN TERRITORY.		
On the bill (S. 1293) for the relief of the Ponca Indians	6	670
On the resolution (S. Res. 120) instructing the Secretary of the Interior to report to the Senate proper boundaries of a reservation of lands in the Indian Territory for the Cheyenne and Arapahoe Indians with reference to providing arable lands for the Indians in severalty, &c	7	708
SELECT COMMITTEE TO INQUIRE INTO ALL CLAIMS OF CITIZENS OF THE UNITED STATES AGAINST THE GOVERNMENT OF NICARAGUA.		
On the bill (S. 1650) authorizing the President to make the necessary arrangements to carry into effect any convention between the United States and Nicaragua for the adjustment of claims which may be duly concluded between the two governments	5	532
SELECT COMMITTEE ON THE FREEDMAN'S SAVINGS AND TRUST COMPANY.		
On the resolution of the Senate adopted April 7, 1879. (To accompany bills S. 711 and S. 1581)	3	440
SELECT COMMITTEE TO INQUIRE INTO ALLEGED FRAUDS IN THE LATE ELECTIONS.		
On the resolution of the Senate adopted March 19, 1879	3	427
On the same	5	497
On the same. (To accompany bill S. 1721)	6	572
SELECT COMMITTEE TO INVESTIGATE THE CAUSES WHICH HAVE LED TO THE EMIGRATION OF NEGROES FROM THE SOUTHERN TO THE NORTHERN STATES.		
On the resolution of the Senate adopted December 19, 1879	8	693
On the resolution of the Senate adopted December 19, 1879. Part 2	8	693
On the resolution of the Senate adopted December 19, 1879. Part 3	8	693

REPORTS OF COMMITTEES, BY WHOM MADE, AND FROM WHAT COMMITTEE.

COMMITTEE ON PRIVILEGES AND ELECTIONS.

No.

By Mr. Saulsbury 1, 277
By Mr. Hill, of Georgia 388

COMMITTEE ON FOREIGN RELATIONS.

By Mr. Morgan 285
By Mr. Pendleton 347
By Mr. Hill, of Georgia 449

COMMITTEE ON FINANCE.

By Mr. Kernan ..... 7, 68[illegible]
By Mr. Bayard ..... 50, 51, 428, 46[illegible]
By Mr. Ferry ..... 52, 295, 37[illegible]
By Mr. Wallace ..... 88, 416, 67[illegible]
By Mr. Voorhees ..... 14[illegible]
By Mr. Beck ..... 325, 37[illegible]
By Mr. Morrill ..... 3[illegible]
By Mr. Allison ..... 381, 7[illegible]

COMMITTEE ON APPROPRIATIONS.

By Mr. Davis, of West Virginia ..... [illegible]

COMMITTEE ON COMMERCE.

By Mr. Baldwin ..... 335, 477, 485, [illegible]
By Mr. McMillan ..... 389, 390, 392, 393, [illegible]
By Mr. Jones, of Nevada ..... [illegible]

COMMITTEE ON MILITARY AFFAIRS.

By Mr. Grover .....
By Mr. Cockrell ..... 9, 49, 54, 55, 78, 86, 87, 129, 130, 196, 201, 240, 275, 397, 411, 412, 4[illegible]
630, 652, 658, 661, [illegible]
By Mr. Maxey ..... 40, 41, 42, 43, 44, 53, 71, 72, 77, 115, 162, 197, 198, 199, 204, 239, 2[illegible]
283, 291, 300, 328 (429, views of the minority, part 2), [illegible]
By Mr Cameron, of Pennsylvania ..... 45, 46, 47, 48, 127, 292, 294, 329, 369, 370, 394, 4[illegible]
623, 624, 625, 626, 627, 633, [illegible]
By Mr. Randolph ..... 56, 57, 67, 68, 69, 85, 132, 133, 143, 158, 202, 203, 212, 224, [illegible]
By Mr. Logan ..... 76, 79, 126, 145, 146, 147, 148, 150, 151, 152 (views of the minor[illegible]
158), 193, 194, 293, 297, 302, 304, 413, 419, 420, 429, [illegible]
By Mr. Plumb ..... 122, 135, 136, 137, 138, 139, 140, 271, 298, 299, 311, 378, 524, [illegible]
By Mr. Burnside ..... (views of the minority, 158), 195, 200, 308, 319, 320, 321, 322, [illegible]
371, 372, 410, 445, 446, 447, 448, 456, 458, 459, 460, 525, 526, 527, [illegible]
529, 561, 562, 563, 564, [illegible]
By Mr. Hampton ..... 382, 415, 461, 462, 640 - 7

COMMITTEE ON NAVAL AFFAIRS.

By Mr. White .....
By Mr. Anthony 149, 206, 541
By Mr. Ferry 209, 215, 279, 508, 666
By Mr. Jones, of Florida 249, 348, 386
By Mr. Cameron, of Pennsylvania 251, 379, 380, 395, 402, 519, 530, 536
By Mr. Farley 330, 651
By Mr. McPherson 472, 512, 595, 653

COMMITTEE ON THE JUDICIARY.

No.
By Mr. McDonald 156, 157, 178, 213, 280, 712
By Mr. Garland 161, 332
By Mr. Davis 258, 400
By Mr. Thurman 260, 360
By Mr. Edmunds 396, 476, 504

COMMITTEE ON POST-OFFICES AND POST-ROADS.

By Mr. Maxey 3, 100, 336
By Mr. Bailey 60, 96, 391, 649
By Mr. Kirkwood 65
By Mr. Groome 159, 290, 643, 650
By Mr. Ferry 288, 353, 406
By Mr. Farley 408, 618, 619

COMMITTEE ON PUBLIC LANDS.

By Mr. Plumb 89, 121, 326, 639
By Mr. Booth 241, 245, 553, 656
By Mr. Hill, of Colorado 250, 256
By Mr. Walker 274, 309, 710
By Mr. Jones, of Florida 376, 407
By Mr. McDonald 620, 657

COMMITTEE ON PRIVATE LAND CLAIMS.

By Mr. Jonas 346, 357

COMMITTEE ON INDIAN AFFAIRS.

By Mr. Pendleton 186, 551
By Mr. Logan 253
By Mr. Williams 398, 575
By Mr. Slater 599

COMMITTEE ON PENSIONS.

By Mr. Kirkwood 6, 11, 12, 13, 25, 26, 27, 28, 32, 73, 74, 75, 84, 173, 174, 191, 192, 228, 229, 358, 434, 457, 478, 479, 494, 495, 498, 516, 556, 570, 584, 591, 615, 668, 669, 679, 685, 696, 703, 704, 705, 706, 707
By Mr. Withers 10, 14, 29, 30, 31, 66, 81, 82, 83, 91, 106, 107, 111, 113, 114, 238, 225, 226, 227, 324, 341, 342, 354, 355, 373, 418, 432, 433, 435, 436, 463, 474, 480, 481, 482, 483, 484, 487, 488, 493, 499, 500, 501, 503, 514, 515, 517, 518, 534, 535, 537, 577, 581, 588, 589, 603, 671, 672, 673, 674, 678, 680, 697, 709, 719
By Mr. Ingalls 15, 16, 17, 18, 20, 21, 22, 23, 33, 34, 35, 37, 38, 123, 231, 232, 233, 234, 235, 236, 276, 356, 489, 492, 542, 543, 544, 545, 546, 547, 548, 549, 550, 554, 557, 606, 608, 609, 612, 613, 614, 628, 636
By Mr. Call ..... 19, 24, 36, 230, 266, 267, 349, 362, 363, 364, 417, 437, 439, 490, 533, 552, 555, 559, 585, 586, 590, 596, 607, 663, 664, 665, 667, 675, 682, 691, 692, 695, 721, 715.
By Mr. Groome 80, 119, 120, 187, 188, 189, 190, 210, 211, 214, 242, 243, 244, 312, 313, 340, 343, 431, 491, 507, 510, 634, 635, 637, 642, 687, 688, 689, 690, 694, 700, 701, 702
By Mr. Platt 101, 102, 105, 116, 117, 118, 175, 176, 177, 179, 181, 182, 183, 217, 218, 219, 220, 264, 265, 269, 270, 337, 338, 344, 387, 438, 464, 467, 469, 502, 578, 579, 580, 582, 600, 601, 602, 610, 611, 684, 698, 699
By Mr. McPherson 108, 109, 110, 112, 168, 169, 170, 171, 172, 180, 184, 185, 221, 365, 366, 367, 368, 521, 523, 565, 566, 567, 568, 593, 604, 605, 616, 686
By Mr. Farley 222, 223, 224, 237, 259, 261, 268, 315, 316, 317, 318, 339, 345, 361, 442, 443, 444, 587, 592, 594, 631, 632, 641, 662
By Mr. Kellogg 414, 558, 583
By Mr. Brown 722

COMMITTEE ON REVOLUTIONARY CLAIMS.

By Mr. Dawes 676

COMMITTEE ON CLAIMS.

By Mr. Cockrell.....8, 59, 61, 62, 63, 90, 92, 98, 134, 164, 166, 208, 246, 305, 351, 425, 450, 475, 597, 646
By Mr. Cameron, of Wisconsin....58, 93, 99, 124, 141, 142, 167, 216, 257, 286, 289, 331, 352, 401, 421, 441, 473, 513, 531, 574.
By Mr. Harris.....64, 97, 205, 247, 248, 309, 571, 644, 718
By Mr. Groome.....70, 153, 154, 281, 282, 404
By Mr. Hoar.....94, 255, 278, 333, 405, 471, 647, 714
By Mr. Teller.....95, 131, 144, 155, 306, 350, 454, 511, 645, 720
By Mr. Hereford.....128, 207, 252, 287, 307, 377, 422, 451, 648, 711
By Mr. Pryor.....163, 254, 284, 301, 409, 426, 453, 470 (views of the minority, 471), 505, 509, 598, 659
By Mr. McMillan.....165, 272, 423, 452, 506, 573

COMMITTEE ON THE DISTRICT OF COLUMBIA.

By Mr. Harris..... 39, 621
By Mr. Rollins..... 296
By Mr. Withers..... 383

COMMITTEE ON PATENTS.

By Mr. Hoar.....104, 385, 622
By Mr. Platt..... 262
By Mr. Slater..... 263
By Mr. Call..... 384
By Mr. Kernan.....496, 617, 655, 660
By Mr. Booth..... 540, 569

COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS.

By Mr. Vest..... 310
By Mr. Jones, of Florida..... 314

COMMITTEE ON TERRITORIES.

By Mr. Garland..... 455
By Mr. Butler..... 538

COMMITTEE ON RAILROADS.

By Mr. Dawes..... 103, 717
By Mr. Jonas..... 716

COMMITTEE ON THE REVISION OF THE LAWS.

By Mr. Wallace..... 2

COMMITTEE ON EDUCATION AND LABOR.

By Mr. Bruce..... 359

COMMITTEE ON CIVIL SERVICE AND RETRENCHMENT.

By Mr. Butler..... 303
By Mr. Rollins (views of the minority)..... 303

SELECT COMMITTEE TO INVESTIGATE THE FINANCE REPORTS, BOOKS, AND ACCOUNTS OF THE TREASURY DEPARTMENT.

By Mr. Davis, of West Virginia..... 539

SELECT COMMITTEE TO MAKE PROVISION FOR TAKING THE TENTH CENSUS.

By Mr. Pendleton..... 723

SELECT COMMITTEE TO INQUIRE INTO ALLEGED FRAUDS IN THE LATE ELECTIONS.

By Mr. Wallace..... 427, 572

SELECT COMMITTEE TO EXAMINE INTO THE CIRCUMSTANCES CONNECTED WITH THE REMOVAL OF THE NORTHERN CHEYENNES FROM THE SIOUX RESERVATION TO THE INDIAN TERRITORY.

By Mr. Dawes 670
By Mr. Kirkwood 708

SELECT COMMITTEE TO INQUIRE INTO ALL CLAIMS OF CITIZENS OF THE UNITED STATES AGAINST THE GOVERNMENT OF NICARAGUA.

By Mr. Hamlin 532

SELECT COMMITTEE ON THE FREEDMAN'S SAVINGS AND TRUST COMPANY.

By Mr. Bruce 440

SELECT COMMITTEE TO INVESTIGATE THE CAUSES WHICH HAVE LED TO THE EMIGRATION OF NEGROES FROM THE SOUTHERN TO NORTHERN STATES.

By Mr. Vance (in three parts) 693

46TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1.

IN THE SENATE OF THE UNITED STATES.

APRIL 2, 1879.—Ordered to lie on the table and be printed.

Mr. SAULSBURY, from the Committee on Privileges and Elections, submitted the following

REPORT:

The Committee on Privileges and Elections, to whom were referred the credentials of the Hon. Charles H. Bell, claiming a seat in the Senate as a Senator from the State of New Hampshire, have had the same under consideration, and ask leave to make the following report:

The term of Bainbridge Wadleigh, a Senator from the State of New Hampshire, expired by Constitutional limitation on the 3d day of March, 1879, in a recess of the legislature, and on the 13th day of March, 1879, Mr. Bell was appointed in his place by the executive.

By reason of a change in the constitution of that State, which took effect in October, 1878, two legislatures were chosen in that year, one, under the old constitution, in March, whose term of office commenced in June, 1878, and will terminate in May, 1879; the other, under the new constitution, was chosen in November to serve for two years, the term commencing in June, 1879.

The Committee on Privileges and Elections of the Senate in the Forty-fifth Congress, to whom was referred the question which of these two bodies had the right to choose a successor to Mr. Wadleigh, was of opinion, and so reported to the Senate, that under the act of 1866 (Revised Statutes, section 14) the last-named legislature was entitled to elect, because it was the legislature chosen next preceding the expiration of Mr. Wadleigh's term of service. In the opinion of the committee this report, and the action of the Senate in adopting it, are not important in the settlement of the question now presented.

The Constitution of the United States, article 1, section 3, provides as follows:

> The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years, and each Senator shall have one vote.
>
> Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

It has been noticed that this claimant bases his right to a seat in the Senate, not upon the fact that a term filled by the legislature of New Hampshire had become vacant during a recess of the legislature, but upon the fact that the executive claims the right to make a temporary appointment at the beginning of a term which the legislature has not undertaken to fill.

The committee cannot find in the Constitution any sufficient warrant

[illegible] If we look at the provision authorizing the governor to [illegible] temporary appointments independently of its connection with the [illegible] of the section, we think it is manifest that the authority is limited [illegible] vacancies which happen in a term which had been previously [illegible] the legislature. If it was intended to vest in the executive the power to make temporary appointments to terms for which no person had been chosen by the legislature, why should the words "happen by resignation or otherwise" have been added to the word "vacancies"? These words did not render it more comprehensive, and must have been designed to limit and restrict its meaning to vacancies occurring from resignation or some unforeseen event. If any doubt, however, existed as to the meaning of the language referred to, when considered unconnected with the rest of the section, such doubts would be removed by construing the provisions of the section together. Applying to them the rules recognized for the construction of statutes and Constitutional provisions, the committee are forced to the conclusion that the legislature alone is empowered to choose a Senator upon the expiration of a Senatorial term, and that the executive can only make temporary appointments to fill vacancies occurring in a term which has been previously filled. It is well known that in the convention which framed the Constitution this subject received careful consideration. After it had been determined that the States should have equal representation in the Senate, the manner of choosing Senators was considered; various propositions were submitted, and, among others, appointments by the executives of the States. Finally it was determined to vest in the legislature the power of choosing Senators, and in the executive the power to make temporary appointments, if vacancies should happen in the office after it had been filled, until such time as the legislature could again act. This, it seems to the committee, was the obvious intent of the Constitution, gathered, not only from the language of the entire section under consideration, but also from the debates in the convention in reference to its provisions.

Nothing in the history of the Senate for the last fifty years is at variance with the views here presented.

The records of the Senate show that down to the year 1817 a number of appointments were made by State executives of persons to succeed Senators whose terms of service had expired, and that the persons so appointed were admitted to seats in the Senate.

The first case was that of William Cocke, of the State of Tennessee.

This State was admitted into the Union in 1796. In the month of August, of that year, William Cocke and William Blount were chosen Senators in Congress by the legislature. By lot they were assigned to the first and second classes of the three classes directed to be formed by the article of the Constitution above quoted, and Mr. Cocke, having drawn the term which expired on the 3d day of March, 1797, during a recess of the legislature, was appointed by the governor to be his own successor on the 22d of April, 1797, and he was admitted to a seat without objection.

The second case was that of Uriah Tracy, a Senator from the State of Connecticut, whose term expired on the 3d of March, 1801. Under an appointment by the governor he was admitted to a seat on the 4th day of March, 1801, after a heated discussion, and by a party vote of 15 to [illegible]

This precedent was followed on the next day by the admission of Mr. Hindman, of Maryland; by the admission of Mr. Condit, of New Jersey, in 1803; Mr. Anderson, of Tennessee, and Mr. Smith, of Maryland, in 1809; Mr. Cutts, of New Hampshire, in 1813; and Mr. Williams, of Tennessee, in 1814; all executive appointments to fill places made vacant

by the expiration of full terms of service during recesses of legislatures, and all were admitted without discussion and without objection.

But in 1825 the term of James Lanman, of Connecticut, expired during a recess of the legislature. In anticipation of the vacancy, he had been appointed by the governor as his own successor. His credentials were presented on the 4th day of March, 1825, and after a protracted debate the Senate refused to admit him to a seat. No record of this debate has been preserved, and the committee have not the advantage of the reasoning by which the Senate was guided in its action. Enough, however, remains to show that the Senate decided that a vacancy authorizing an appointment by the executive had not "happened" within the meaning of the Constitution. It was held, and, in the opinion of this committee, correctly, that the Constitution conferred upon the legislature, and upon it alone, the power to appoint a Senator for the beginning of a new term; and it seems to the committee that this decision is clearly in accord with the spirit and meaning of the article of the Constitution already quoted.

This section confers upon the legislature the right, and imposes upon it the duty, of chosing Senators who are to serve for six years.

In every one of the States a legislature must be in session at some time preceding the expiration of a Senatorial term. We know as a fact that at the time of the adoption of the Constitution these sessions were mostly annual, and, as now, those not annual were biennial. After the first assignment of Senators to classes, the term of office was fixed, and, under the Constitution, would expire at a time certain. When, therefore, the first clause of the third section, first article, of the Constitution directed that Senators should be chosen by the legislatures, it appears most manifestly to have been the purpose of its framers to give exclusive power to the legislature to make the choice, unless, as provided by the last clause, vacancies should "happen" by resignation, or otherwise, during a recess of the legislature, when the executive should make temporary appointments until the next session of the legislature.

The power to make temporary appointments was conferred upon the executive, because the accidents of death, resignation, expulsion, or acceptance of another office could not be foreseen or provided for by the legislature. In the one class of cases the time when a term would expire was fixed by law and was well known. There could be no doubt or uncertainty in regard to it, and in such case a vacancy could occur only by the willful disregard by the State in framing its organic law, or by the legislature, of Constitutional obligations. In such case a vacancy could not "happen," or occur by chance, casualty, or other event that could not be guarded against.

The decision in Lanman's case has been for more than fifty years regarded as a correct exposition of the Constitution. During this long lapse of years its authority has not been questioned, and it has guided the action of legislatures and of executives of States.

Many cases have occurred when, under like circumstances, for months, and in some instances for one or two years, and even a longer time, States have been represented upon the floor of the Senate by a single Senator, and for the reason that the decision in Lanman's case was regarded as final and conclusive of the question. The following are cases of this character:

Cases of unfilled seats or vacancies at beginning of Senatorial terms by reason of non-election.

Maine.—Vacancy from March 4, 1853, till February 23, 1854, when William Pitt Fessenden took the seat under an election.

[illegible]

[illegible] Mr. [illegible] the [illegible] of [illegible] were [illegible]

[illegible] Mr. Sevier [illegible] Mr. Sevier

[illegible] of Tennessee [illegible] the one now [illegible]

[illegible] the conclusion [illegible] of the term of Senator [illegible] and therefore [illegible] resolution, and recommend its passage:

Resolved, That the Hon. Charles H. Bell is not entitled to a seat as a Senator [illegible] of the Legislature of New Hampshire.

E. SALISBURY.
BENJ. H. HILL.
J. E. BAILEY.
F. KERNAN.
GEO. S. HOUSTON.
Z. B. VANCE.

VIEWS OF THE MINORITY.

1.

The undersigned members of the Committee on Privileges and Elections, to whom were referred the credentials of Hon. Charles H. Bell, claiming to be admitted as a Senator from the State of New Hampshire, dissent from the conclusions of a majority of the committee.

The Constitution, article 1, section 3, provides as follows:

1 A.

The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years; and each Senator shall have one vote. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

The term of office of the Hon. Bainbridge Wadleigh, a Senator from the State of New Hampshire, expired on the 3d day of March, 1879.

By the statute of the United States, approved July 25, 1866, re-enacted Revised Statutes, 814, it is provided:

The legislature of each State, which is chosen next preceding the expiration of the time for which any Senator was elected to represent such State in Congress, shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a Senator in Congress.

Under the new constitution of New Hampshire, a legislature was chosen in November, 1878, for a term to begin in June, 1879. That legislature cannot elect a Senator until June, 1879, because, by the constitution of the State, its legislative powers will not vest until then. Its predecessor could not elect a Senator at its last session, and cannot now, if called together in special session, because it was not the legislature last chosen before the expiration of Mr. Wadleigh's term.

The governor of New Hampshire, on the thirteenth of March, 1879, made temporary appointment of the Hon. Charles H. Bell, until the next meeting of the legislature. Mr. Bell now presents himself to claim the seat. The only question is, Has a vacancy happened by "resignation or otherwise," so that the executive was authorized to make this appointment?

We are aided in determining this question by considering the leading purpose of the Constitutional provision, the natural meaning of the words, and the uniform construction given to similar language used elsewhere in the Constitution, and the previous judgments of the Senate in like cases.

The purpose of the Constitution is to have the Senate always full. This is the interest not merely of the State whose right to elect is in question, but of the whole country, for whom the Senator is to legislate,

whose servant he is, and to whom his service is due. To this end the Constitution provides that "the Senate *shall* be composed of two Senators from each State," and authorizes Congress to make regulations as to the time and manner of electing them. Congress has exercised this authority in the statutes cited, so that no failure of duty of either branch of the legislature may interrupt the State's representation in the Senate. To meet the case of a vacancy happening in the recess of the State legislature, the Constitution clothes the executive with the power of temporary appointment. The purpose to keep the representation of the State always full requires the construction which authorizes such appointment when the vacancy happens at the beginning of the term as much as if it happen at any other time. The authority given to the governor is to appoint "until the next meeting of the legislature," which literally construed, would require the Senator so appointed to vacate his seat on the day the legislature meet. Yet the Senate, in furtherance of the controlling purpose of the Constitution that the place shall be always full, has uniformly held that the Senator so appointed retains his seat until the legislature choose his successor or adjourn without making a choice.

The authority to appoint is vested in the executive, "if a vacancy happen." There is no distinction indicated between vacancies which happen when the term begins and vacancies which happen later. There can be no reason suggested for such a distinction. It is said that the term "vacancy" is not properly applied to offices whose term has expired by limitation at a fixed time, but only to terms which have once been filled.

But the Constitution expressly declares "the seats of the Senators shall be *vacated* at the expiration of the sixth year," &c. Did the Constitution mean to declare that to vacate a seat does not create a vacancy in it?

But it is said a vacancy which occurs at a certain time fixed by law is not a vacancy which "happens"; that the Constitution meant only to vest the appointing power in the executive in case of the vacancy occurring by reason of events which cannot be certainly foreseen; and this is the strong point of those who differ with us. On the contrary, we affirm that nothing is better settled in the construction of the Constitution and of legislation under it than that the words "vacancies happening" include the case of offices which have a fixed term which has expired, and which are vacant because no new appointment has been made. Article 2, section 2, of the Constitution, in its provision for the appointment of officers, declares:

> The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session.

Under this provision the President exercises the undisputed power of filling offices which have a term fixed by law which expires in the recess of Congress. Most important rights of the people and of private citizens depend on the legality of such appointments, which the construction contended for by the majority of the committee must overturn. In Revised Statutes, section 1769, "the President is authorized to fill all vacancies which may happen during the recess of the Senate by reason of death, or resignation, or expiration of term of office."

It is not the ending of the term, but the absence from the office of any person authorized to fill it, to which the word "happen," which expresses contingency, is applied. It is certain that the term will end. *It is still uncertain* whether the office will be vacant, because that de-

pends on the contingent event of the legislature's having filled it. It is in accordance with the custom of our language to apply the word "happen" to the simultaneous occurrence of two events, both of which are certain to take place. "If the fourth of July happen on Sunday, the next day shall be a legal holiday." "If the last day of grace happen to be a holiday, the note shall be payable on the day preceding." *A fortiori* the word may be appropriately used to express the occurrence at the same time of two events, one of which is contingent. If there happen to be no Senator in the office, the authority of the executive exists.

The question has frequently arisen for judgment in the Senate. By a line of decisions unbroken with one possible exception, it has been held that the governor of a State is authorized to fill a vacancy existing at the beginning of a Senatorial term.

April 27, 1797, William Cocke was appointed a Senator from the State of Tennessee by the governor, his term having expired on the third of the preceding month. On the 15th of May, 1797, he presented his credentials, and was admitted to take the oath of office without objection or debate.

March 3, 1801, the seat of Uriah Tracy, of Connecticut, became vacant by the expiration of his term of office. On the 20th of February, 1801, the governor of Connecticut reappointed him a Senator. Objection being raised to his credentials, he was admitted to the oath by a vote of yeas 13, nays 10.

William Hindman, of Maryland, was afterward, on the next day, admitted to the oath on like credentials, without objection.

John Condit, of New Jersey, November 14, 1803, appointed a Senator from New Jersey, to fill the vacancy at the beginning of the term, was admitted to take the oath. Mr. Condit's credentials had been presented October 17, previous.

March 4, 1809, Samuel Smith, of Maryland, appointed on that day by the governor of his State to fill the vacancy caused by the expiration of his own term, was admitted to his seat and sworn.

March 4, 1809, Joseph Anderson, of Tennessee, took his seat by virtue of an appointment from the governor of that State.

May 24, 1813, Charles Cutts, of New Hampshire, appointed by the executive to fill the vacancy during the recess of the legislature, was, without question, admitted to the oath. This vacancy was at the beginning of the term.

March 4, 1817, John Williams, of Tennessee, appointed a Senator by the executive of the State, to hold said appointment until the meeting of the next session of the legislature, was admitted. His credentials were filed on the 10th of the preceding February.

March 4, 1825, James Lanman, of Connecticut, presented his credentials of his appointment by the governor of that State, "to take effect immediately after the 3d of March, 1825, and to hold the seat until the next meeting of the legislature." Mr. Lanman was refused the seat by a vote of 23 to 13. The case was referred to a select committee, who report the facts, but state neither reason nor conclusion. The committee say they have looked into the journals of the Senate, and that the cases of Cocke, Tracy, Anderson, and Williams are the only analogous cases they could find. There is a brief sketch of the debate in Niles' Register, vol. 28, p. 32, but no statement of the reason on which any Senator proceeded. There is no historical evidence from which we can determine whether the Senate rejected Mr. Lanman on the ground that the governor could not fill a vacancy happening at the beginning of the term, or on the ground that the governor could not lawfully make the

appointment in anticipation, before the vacancy occurred, and before he could possibly know whether the legislature might be called together before that time. All the precedents which the committee cite, except that of Mr. Cocke, were cases where the appointment was made not when the vacancy happened in the recess of the legislature, but only when the governor thought it might happen. In the case of Cocke, the date of the appointment is not given in the journals, although in fact it was after the vacancy. The committee do not cite the case of Hindman, Smith, or Condit, nor the then recent case of Cutts, in deciding which some Senators then in office took part, where the appointments were made after the vacancy existed. There is, therefore, nothing to show whether the Senate meant to overrule all the precedents, some of which were not brought to its attention, or only so many of them as recognized the right of the executive to appoint when a vacancy had not happened.

Judge Story, Constitution, § 727, note 2, says:

> In the case of Mr. Lanman, a Senator from Connecticut, a question occurred whether the State executive could make an appointment in the recess of the State legislature, in anticipation of the expiration of the term of office of an existing Senator. It was decided by the Senate that he could not make such an appointment. The facts were that Mr. Lanman's term of service as Senator expired on the 3d of March, 1825. The President had convoked the Senate to meet on the 4th of March. The governor of Connecticut, in the recess of the legislature (whose session would be in May), on the 9th of the preceding February appointed Mr. Lanman as Senator, to sit in the Senate after the 3d of March. The Senate, by a vote of 23 to 18, decided that the appointment could not be constitutionally made until after the vacancy had actually occurred. (See Gordon's Digest of the Laws of the United States, 1827. Appendix, note 1, B.)

In regard to the same case, the National Intelligencer of March 8, 1825, says, in an editorial note:

> An important constitutional question was yesterday decided in the Senate, by the refusal to admit Mr. Lanman to a seat in the Senate under a commission from the governor granted before the expiration of Mr. Lanman's late term of service. This is the first time the question has been adjudicated under such circumstances as to form a precedent; and we presume it may now be considered as a settled construction of the constitutional provision, that a vacancy must have literally "happened" or come to pass before an appointment can be made to fill it.

The State of Arkansas was admitted to the Union in 1836. In October, 1836, the legislature of that State elected Ambrose H. Sevier and William S. Fulton Senators. On the allotment of the Arkansas Senators to their respective classes, as required by the third section of the first article of the Constitution, Mr. Sevier was placed in the class of Senators whose term of service expired on the 3d of March, 1837. The legislature of Arkansas had no opportunity to fill the vacancy, and were not in session after the result of the allotment was known in that State. January 17, 1837, the governor of Arkansas appointed Mr. Sevier to fill the vacancy which would take place on the 3d of March. When Mr. Sevier's credentials were presented at the winter session, Mr. Webster suggested a doubt of the validity of the appointment, in which Mr. Sevier himself concurred. At the March session the credentials were referred to the Committee on the Judiciary. Mr. Grundy, from that committee, reported in favor of Mr. Sevier's admission, and he was admitted.

Mr. Grundy's report states that it is not intended by the committee to call in question the correctness of the decision in the Lanman case; that that case proceeded on the ground "that the legislature should provide for all vacancies which must occur at stated and known periods, and that the expiration of a regular term of service is not such a contingency as is embraced in the second section of the first article of the Constitution."

The report further says:

The case now under consideration is wholly different in principle. The time when Mr. Sevier was to go out of office was decided by lot.

From this review of the judgments of the Senate, it appears that in every case in which a Senator has been appointed by the executive after the happening of a vacancy by the expiration of the term without an election of a successor by the legislature, the person so appointed has been admitted to his seat. There is no indication that the Senate ever denied or doubted the correctness of this construction of the Constitution, except the unsupported statement of Mr. Grundy of the ground of a decision made twelve years before—a statement which nothing in the journal or the debates confirms, and which is opposed to the understanding of Judge Story and the contemporaneous article in the Intelligencer.

The second section of the first article of the Constitution provides, "When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies." In 1837, the law of Mississippi fixed the time for the election of representatives in November. The President having called a special session of Congress to meet in September, the governor of Mississippi, on the 13th of June, issued writs for an election in July for two representatives to Congress to fill said vacancy, until superseded by the members to be elected at the next regular election in November.

At this July election Messrs. Gohlson and Claiborne were elected and claimed the seats. Their claim was referred to a committee, of which Andrew Buchanan was chairman, who reported in favor of their right to seats for the full term. They say in their report:

The Constitution authorizes the executive power of the States respectively to order the filling of all vacancies which have actually happened, in the mode therein pointed out, no matter how the vacancy may have happened, whether by death, resignation, or expiration of the term of members previous to the election of their successors.

In the debate, John Quincy Adams said he believed, in relation to offices, that every one *happens* to be vacant which is not full; and that, he believed, was the meaning and sense of the Constitution, whether the vacancy occurred from casualty, the regular course of events, expiration of term, or other cause.

The claimants were admitted to their seats. In November following, Messrs. Prentiss and Wood were elected for the same term. At the next December session, the resolution declaring Gholson and Claiborne elected was rescinded, but a resolution was also adopted, by the casting vote of Speaker James K. Polk, that Prentiss and Wood were not members. So that no inference can properly be drawn from that case; and it is of no value, except so far as weight may be attached to the opinions of John Quincy Adams and James K. Polk, both favoring the construction of the Constitution for which we contend.

Appended to the report in the Mississippi case are opinions of two of the most distinguished Attorneys-General of the United States, Roger B. Taney and William Wirt, in which they discuss the meaning of the phrase "vacancies that may happen during the recess" with reference to the power of the President to fill an office which is vacant in the recess, because the Senate adjourned without acting on a nomination, the original vacancy having happened during the session. Both these eminent jurists agree that the term "happen" is equivalent to "happen to exist," "if it come to pass that there be a vacancy." Mr. Taney says:

The Constitution was formed for practical purposes, and a construction that defeats the very object of the grant of power cannot be a true one. It was the intention of the Constitution that the offices created by law should always be full.

46TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1.

IN THE SENATE OF THE UNITED STATES.

APRIL 2, 1879.—Ordered to lie on the table and be printed.

Mr. SAULSBURY, from the Committee on Privileges and Elections, submitted the following

REPORT:

The Committee on Privileges and Elections, to whom were referred the credentials of the Hon. Charles H. Bell, claiming a seat in the Senate as a Senator from the State of New Hampshire, have had the same under consideration, and ask leave to make the following report:

The term of Bainbridge Wadleigh, a Senator from the State of New Hampshire, expired by Constitutional limitation on the 3d day of March, 1879, in a recess of the legislature, and on the 13th day of March, 1879, Mr. Bell was appointed in his place by the executive.

By reason of a change in the constitution of that State, which took effect in October, 1878, two legislatures were chosen in that year, one, under the old constitution, in March, whose term of office commenced in June, 1878, and will terminate in May, 1879; the other, under the new constitution, was chosen in November to serve for two years, the term commencing in June, 1879.

The Committee on Privileges and Elections of the Senate in the Forty-fifth Congress, to whom was referred the question which of these two bodies had the right to choose a successor to Mr. Wadleigh, was of opinion, and so reported to the Senate, that under the act of 1866 (Revised Statutes, section 14) the last-named legislature was entitled to elect, because it was the legislature chosen next preceding the expiration of Mr. Wadleigh's term of service. In the opinion of the committee this report, and the action of the Senate in adopting it, are not important in the settlement of the question now presented.

The Constitution of the United States, article 1, section 3, provides as follows:

> The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years, and each Senator shall have one vote.
>
> Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

It has been noticed that this claimant bases his right to a seat in the Senate, not upon the fact that a term filled by the legislature of New Hampshire had become vacant during a recess of the legislature, but upon the fact that the executive claims the right to make a temporary appointment at the beginning of a term which the legislature has not undertaken to fill.

The committee cannot find in the Constitution any sufficient warrant

of the present session, which are to be added thereto immediately after the adjournment, and are of the opinion that it meets the wants and necessities of the case. Its title indicates its contents, and is as follows:

"Supplement to the Revised Statutes of the United States, embracing the statutes, general and permanent in their nature, passed after the Revised Statutes, with references connecting provisions on the same subject, explanatory notes, citations of judicial decisions, and a general index. Legislation of the 43d, 44th, and 45th Congresses, A. D. 1874–1879."

The numerous notes supplement the statutes wherever references to other acts or to facts are necessary to a clear understanding of the effect of the enactments. The marginal references connect together the acts on the same subject, and by means thereof the reader is at once directed to all the legislation on the subject-matter of any law which he is examining.

A table is added of the sections of the Revised Statutes repealed, altered, or affected by subsequent legislation, with references to the pages where such changes may be found, so that in considering any section of those statutes a reference to this table will indicate whether or not it has been amended or in any way affected, and will point to the amendments, if any, which have been made. These notes and references, which number several thousand, are the result of annotations made by the editor from time to time during a series of years for his own use, with great care and often with much research, in which he has had the benefit of more than twenty years' experience in such kind of work. The volume will contain some five hundred or six hundred pages, and we are satisfied must prove to be a convenient and useful edition of the laws for Congress, the courts, public officers, and all who have occasion to consult the statutes of the United States, and will form a necessary and almost indispensable accompaniment to the Revised Statutes.

It is not a revision but a reproduction of the existing general laws in the language of their enactment, in chronological order, with notes and references as before pointed out, and most of the work is already completed. The legislation of the present session can be added and the work edited and printed during the summer so as to be laid before Congress at the opening of the next session, if not previously distributed, when, with the Revised Statutes and this volume, members will have the general laws brought down to that very date. The committee report back favorably the accompanying joint resolution and recommend its passage.

It provides for stereotyping the work, an expense which will not probably exceed fifteen hundred dollars, and for printing and distributing the same number of copies as were distributed of the second edition of the Revised Statutes by the joint resolution of May 22, 1878, in order that members of Congress and the departments may have the same number of copies as they had of that edition of the Revised Statutes to which this is a supplement. It also provides for the sale of copies to the public on similar terms to those prescribed for the sale of the Revised Statutes.

46TH CONGRESS, 1st Session. | SENATE. | REPORT No. 3.

IN THE SENATE OF THE UNITED STATES.

MAY 1, 1879.—Ordered to be printed.

Mr. MAXEY, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill S. 516.]

The Committee on Post-Offices and Post-Roads, to whom was referred S. 516, present session, respectfully submit the following report:

The act approved August 11, 1876, volume 19, on page 130, contains the following provision:

Whenever an accepted bidder shall fail to enter into contract, or a contractor on any mail-route shall fail or refuse to perform the service on said route according to his contract, or when a new route shall be established or new service required, or when, from any other cause, there shall not be a contractor legally bound or required to perform such service, the Postmaster-General may make a temporary contract for carrying the mail on such route without advertisement for such period as may be necessary, not in any case exceeding six months, until the service shall have commenced under a contract made according to law.

The Revised Statutes, section 3951, provides that the Postmaster-General may contract without advertisement for a period not exceeding twelve months in such cases.

The inconvenience resulting from the reduction from 12 to 6 months was before the Committee on Post-Offices and Post-Roads at the last session, and a section was added to the post-route bill precisely of the import of the bill now reported, but was not considered for want of time.

The committee subjoins the following communication from the Postmaster-General on the subject, showing the necessity for prompt action, viz:

POST-OFFICE DEPARTMENT,
Washington, D. C., April 29, 1879.

SIR: I beg to call the attention of your committee to a paragraph in my last annual report, page 11, relative to "temporary contracts" for carrying the mails, as follows:

"The present law limiting the period for which temporary contracts may be made without advertisement to six months has occasioned much embarrassment to the department, and rendered it necessary to issue two miscellaneous advertisements each year instead of one as formerly. The expense of establishing service is thereby considerably increased, and much additional labor is imposed upon the department, with no advantage to the government or the public. If temporary contracts could be made for one year, as formerly, the service would be benefited."

The practical workings of this law have been specially inconvenient and expensive during the current year and since the above recommendation. Service of great importance became necessary on the frontier and in the mining districts of the West which could not wait the delay of an advertisement. The short limit of a temporary contract made the service more expensive than it would have been otherwise, and, owing to a delay in the passage of the last post-route bill, the limit of a temporary contract (six months) was reached before service could be obtained under advertisement. As the result the service on several *very* important routes had to be suspended and to remain

so for from three to six months, to the great inconvenience and loss of large communities.

I therefore beg to renew my recommendation that the law of August 11, 1876, be so amended as to permit the making of a temporary contract in the emergencies therein specified for the period of one year or until a contract can be secured by the succeeding advertisement.

Very respectfully,

D. M. KEY,
Postmaster-General.

Hon. S. B. MAXEY,
Chairman Committee Post-Offices and Post-Roads, United States Senate.

The inconvenience proposed to be remedied by the bill needs, in the estimation of the committee, prompt action; wherefore the committee report the bill back without amendment and recommend its passage at the present session.

O

46TH CONGRESS, 1st Session. } SENATE. { REPORT No. 4.

IN THE SENATE OF THE UNITED STATES.

MAY 7, 1879.—Ordered to be printed.

Mr. WHYTE, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill S. 125.]

The Committee on Naval Affairs, to whom was referred the bill (S. 125) *to appoint Spruille Braden an ensign in the United States Navy, report:*

That the facts in the case of Spruille Braden are set forth at length in the accompanying letter, from the Secretary of the Navy. It would seem from this state of facts that Mr. Braden would make an excellent officer of the United States Navy, and has the qualifications and characteristics to distinguish himself in the service. We therefore recommend the passage of the bill.

NAVY DEPARTMENT,
Washington, February 6, 1879.

SIR: I have the honor to acknowledge the receipt of the request of the Senate Committee on Naval Affairs, communicated on the 24th ultimo, that the department would lay before them such information as it may be in its power to furnish in reference to the appointment of Spruille Braden as an ensign in the Navy, with such recommendation as it may think proper to make.

The department has no official information on the subject, but there is no reason to believe that the following statement of facts is not reliable:

Young Braden was not long since a pupil in a naval college in England, where he passed through a course of professional study; and is supposed to have been the first American youth who was ever admitted to a like privilege. At the close of his term he passed the customary examination, graduated at the head of his class, which, besides himself, was composed entirely of young men of England, and won the annual prize, valued at $500, which is conferred by the Queen upon "the boy who shows the qualities likely to make the finest sailor." He seems to have achieved the triumph not only because in the opinion of officers and professors he had fairly won it, but with the unanimous assent of his classmates, who were magnanimous enough to concede it. Several other prizes were also awarded to him under like circumstances.

After his graduation, young Braden was offered a midshipman's warrant in the royal navy, upon the condition that he would renounce allegiance to the Government of the United States and become a citizen of Great Britain. The temptation was great to a young man just entering life, but he declined it upon the express ground that he owed a higher duty to the country of his nativity, from which nothing could release him—not even the prospect of honorable service and promotion in the British navy.

Under these circumstances, it would seem that to place him "at the foot of the list of ensigns on the active list" of the Navy, which is proposed by Senate bill No. 1638, would be an act of generosity on the part of his own government, which, throughout his life, he would not be likely to forget. He would not, in that position, interfere with the promotion of any of the ensigns now in the Navy; but, taking his place at the foot of the list, would realize that his future official success would depend upon his own personal merit. The department, therefore, can see no objection to the passage of the bill laid before it by the committee.

Very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. A. A. SARGENT,
Chairman Committee on Naval Affairs,
United States Senate.

46TH CONGRESS, 1st Session. | SENATE. | REPORT No. 5.

IN THE SENATE OF THE UNITED STATES.

MAY 28, 1879.—Ordered to be printed.

Mr. GROVER, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany joint resolution S. R. 15.]

The Committee on Military Affairs, to whom was referred the joint resolution (S. R. 15) requiring the assembling of a court of inquiry in the case of Thomas Worthington, beg leave to submit the following report:

Col. Thomas Worthington was, during the late war, colonel commanding the Forty-sixth Regiment Ohio Volunteer Infantry, from January 30, 1862, when he was promoted from the lieutenant-colonelcy of the organization to the colonelcy of the completed regiment, until his court-martial and dismissal from the service in the fall of 1862.

It appears that he distinguished himself at the battle of Shiloh. General Sherman, in his report of that engagement, under date of April 18, 1862, says: "His (McDowell's) subordinates, Colonels Hicks and Worthington, displayed great personal courage." There is other evidence tending to show that he behaved bravely, and managed his men with skill in that action.

Subsequent to this, to wit, on August 12, 1862, General Sherman issued General Order 69, Headquarters Memphis, convening a general court-martial for the trial of Worthington and others upon the charges of drunkenness and conduct unbecoming an officer and a gentleman. Under these charges there were various specifications, on some of which he was found "guilty" and on some "not guilty." The court thereupon sentenced him to be cashiered.

The findings and sentence of the court were approved by General Sherman on September 16, 1862, and promulgated in General Order 83, Headquarters Fifth Division Army Tennessee. By General Order 86, Headquarters District of West Tennessee, dated October 1, 1862, the same were approved by General Grant.

Against the proceedings in the premises Colonel Worthington formally protested under date of September 17, 1862, upon the ground that under the provisions of section 65 of the Articles of War the same were irregular and void inasmuch as General Sherman, who ordered the court-martial, was the "accuser or prosecutor." It does not appear that this protest was brought to the notice of General Grant before he approved the proceedings of the court-martial; but there is an official indorsement made thereon by him, seventeen days subsequent to his order of October 1, simply referring the same to the Secretary of War.

It further appears from the record in the case that the whole matter was reviewed by Judge-Advocate-General Holt, to whom the protest of Colonel Worthington was referred, who, under date of November 19, 1862, writes as follows:

JUDGE-ADVOCATE-GENERAL'S OFFICE,
November 19, 1862.

Hon. EDWIN M. STANTON,
Secretary of War:

SIR: I beg to call your attention to the records of the proceedings of a general court-martial held at Fort Pickering, Memphis, Tenn., under General Order No. 69, issued by Major-General Sherman on the 15th of August, 1862, and which resulted in the dismissal of Col. Thomas Worthington from the service.

This officer now complains of the proceedings as irregular, and insists that the findings and sentence are inoperative and should be disregarded because Major-General Sherman, by whom the court-martial was ordered specially for his trial, was also his accuser or prosecutor in the case.

The objection seems to me well taken. The act of 28th May, sec. 1, 1830, declares that "whenever a general officer commanding an army or a colonel commanding a separate department shall be the accuser or prosecutor of any officer in the Army of the United States under his command, the general court-martial for the trial of such officer shall be appointed by the President of the United States."

During the progress of the trial Colonel Worthington formally objected in writing to "proceeding further without knowing by whom the charges were drawn or advanced." His objection was overruled. This was irregular. Every officer on trial before a general court-martial is entitled to this information, since without it he can never certainly know whether the tribunal before which he is arraigned has been legally constituted or not. Major-General Sherman now states in writing that the subject-matter of the charges were made by him and placed in the hands of the judge-advocate. This, it is believed, constituted him an "accuser or prosecutor" in the sense of the act of 28th May, 1830, and from him, as such, the power to appoint the court-martial was expressly withheld and given to the President. His action, therefore, in ordering a court-martial specially for the trial of an officer against whom he had preferred charges to be investigated, being without legal sanction, the court itself was without color of authority and its proceedings and findings are a nullity.

The matter of defense now urged did not, as the commanding general supposes, constitute a plea in abatement, which should have been presented at an earlier stage of the proceedings. The irregularity suggested does not call in question merely the jurisdiction of the court to try Colonel Worthington, but its existence as a legally organized tribunal.

It is never too late to insist on so radical and fatal a defect as this. It is of the highest importance that the administration of public justice, as well in the military as in the civil service, shall be not only pure but unsuspected.

This, however, could not be the case, were a commanding general, with all the moral power which belongs to his position, permitted at once to prefer charges against his officers and to organize courts-martial for their trial.

While, however, the findings and sentence of the court as embodied in this record cannot, for lack of legal sanction, operate *ex proprio vigore*, to remove Col. Worthington from the service, may not the facts reported, and on which they are based, furnish ground for the action of the President under the 1st sec. of the act of 17th July, 1862, chap. 200?

In continuation of the opinion, of which the above extract forms the first part, the Judge-Advocate-General characterizes the evidence given before the court as amply sufficient to sustain the findings and to warrant the President in exercising his powers under the act cited of 17 July, 1862. But, so far as your committee can learn, no action was ever taken by the Executive conformable to the suggestion of the Judge-Advocate-General; but the contrary would appear, from the following letter, to have been the case:

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, March 22, 1878.

SIR: I have the honor to report on your reference of the letter of Hon. Mills Gardner, M. C., for information whether Col. Thomas Worthington, Forty-sixth Ohio Vol-

unteers, was dismissed by the late President Lincoln, that the official records of this office indicate that he was not. * * *

SAMUEL BRECK,
Assistant Adjutant-General.

To the honorable the SECRETARY OF WAR.

[The balance of the above letter simply recites the court-martial of 1862 and the revocation of the sentence in 1867.]

On December 22, 1866, Colonel Worthington addressed the following letter to the Secretary of War:

WASHINGTON, *December* 22, 1866.

Hon. E. M. STANTON, *Secretary of War:*

SIR: On the 10th day of August, 1862, at Memphis, Tenn., I offered my resignation, to take effect at such date as the government might determine.

On that day I was put in arrest on charges the proceedings with regard to which have been declared null and void for various irregularities.

If any order for my dismissal on recommendation of the Judge-Advocate-General was issued, I feel very sure it is not of record in the Adjutant-General's Office, and I have never received any notice of the same, nor has it been promulgated in general or special orders to the brigade or division of which my regiment formed a part.

I therefore respectfully request that all proceedings, of whatever character, under the charges against me may be set aside and my resignation of August 10, 1862, may be accepted to take effect on the first day of March following.

From July 29, 1861, when my regiment was accepted, to January 30, 1862, when I was commissioned as colonel of the Forty-Sixth Ohio Volunteer Infantry, my expenditures were over $2,000 in recruiting the Forty-Sixth Regiment Ohio Volunteers. None of this has yet been refunded, and half of it or over I cannot recover under the rules of the department. I therefore trust that my request as to the date of my resignation may not be considered unreasonable. It will allow me three months and eight days' pay after the 21st day of November, 1862, up to which time I have been paid.

Or if it is deemed most proper to give me an honorable discharge, with or without reference to my real or intended dismissal, I shall of course acquiesce, still requesting that the discharge may be dated on or after the 1st day of March, 1863.

Very respectfully,

T. WORTHINGTON.
Late Colonel Forty-Sixth Regiment O. V. I.

On January 8, 1867, the Secretary of War directed the revocation of Colonel Worthington's dismissal, and the Adjutant-General on that date issued "Special Orders No. 11," of which the following is an extract:

5. So much of General Orders No. 86, dated October 1, 1862, from headquarters district of West Tennessee, as cashiered Colonel Thomas Worthington, Forty-sixth Regiment Ohio Infantry Volunteers, is hereby revoked, and he is honorably discharged the service of the United States upon tender of resignation to date November 21, 1862, to which date he has been paid.

* * * * * *

By order of the Secretary of War.

E. D. TOWNSEND,
Assistant Adjutant-General.

It does not appear, then, that Colonel Worthington ever complied with the condition of the order honorably discharging him, by tendering his resignation to take effect on the specified date of November 21, 1862, and he asserts before your committee that he never did do so; but his resignation which was accepted and acted upon was dated to take effect March 1, 1863. Colonel Worthington further asserts that his tender of resignation to take effect on March 1, 1863, as presented in his letter of December 22, 1866, above quoted, was made under circumstances of special hardship forcing him to that course, inasmuch as his "claim for recruiting pay" connected with the Forty-sixth Regiment Ohio Volunteer Infantry could not be settled so long as he lay under the disability of the sentence of the court. In evidence of this he submits the following letter of the then governor of Ohio:

STATE OF OHIO, EXECUTIVE DEPARTMENT,
Columbus, December 26, 1866.

MY DEAR SIR: I hand you herewith the certificate you desire in regard to the Fort; sixth Regiment and also in reference to A. S. Piatt's.

I shall be very glad to assist you in any way possible in regard to your claim for r cruiting pay, and would suggest that, if your disability by reason of the action of tl court-martial is removed, your claim *in that respect* could be audited and paid by tl board of military claims here. The United States recruiting officer here will not a outside of the letter of his regulations, &c.

In haste, very truly, yours,

J. D. COX, *Governor.*

Col. T. WORTHINGTON,
Washington, D. C.

As it fully appears by the records in the premises that the court-ma tial and all the proceedings connected therewith were void *ab initio*, an that its sentence dismissing Colonel Worthington was revoked by th Secretary of War and an honorable discharge ordered to be grante him, your committee do not think that these proceedings in any wa impair the military character and personal honor of Colonel Worthingto His honorable discharge from the service of the United States by h government, with a full knowledge of all the circumstances affecting h services in the late war and his character as an officer and a man, co stitutes a sufficient vindication of him personally.

His pay in the service was stopped on November 21, 1862, the da of the supposed dismissal by the President, of which there is no reco and no proof that it was ever ordered. The date of his first letter resignation, addressed to the Secretary of War, and which he asser was written under aggravated stress of circumstances, is August 8, 186 It was not accepted. His letter to the Secretary of War calling his a tention to this one of August 8, 1862, is dated December 22, 1866, an requests an honorable discharge.

Col. Thomas Worthington is now seventy-two years of age and i utter poverty. Your committee would deem it an act of justice on th part of the government if he should be allowed a reasonable amount pay subsequent to the date of closing his account upon the date of th said assumed dismissal hereinbefore referred to, and recommend tha pay be allowed him.

Inasmuch as Colonel Worthington has been honorably discharge from the service of the United States, in which he was a volunteer off cer only, a court of inquiry, or a court-martial, which is provided for i the pending joint resolution for his relief, would tend in no way to rein state him in the military service; and inasmuch as his military charac ter has not been impeached by the proceedings already had, the appoint ment of a court of inquiry or court-martial under a special law woul not be pertinent to his relief in the opinion of your committee, wh therefore, recommend the accompanying amendment to the said join resolution:

S. R. 15.—46th Congress, 1st Session.

MARCH 31, 1879.—Mr. Pendleton (by request) asked and, by unanimou consent, obtained leave to bring in the following joint resolution which was read twice and referred to the Committee on Militar Affairs.

JOINT RESOLUTION requiring the assembling of a court of inquiry in the case Thomas Worthington.

Resolved by the Senate and House of Representatives of the United State of America in Congress assembled, [That the Secretary of War is hereb

required to order a court-martial or court of inquiry to inquire into the matter of the charges and specifications set forth in the military record of Colonel T. Worthington, late colonel Forty-sixth Regiment Ohio Volunteer Infantry, submitted to Congress May sixth, eighteen hundred and seventy-eight.

Said court to confine its inquiries to the record of Colonel Worthington's trial at Memphis, Tennessee, in August, eighteen hundred and sixty-two, unless considered that further evidence should be required for a proper understanding of the case.

Said court to consist of three or five members, and to assemble at Cincinnati, Ohio, on or before the first day of July, eighteen hundred and seventy-nine; and the findings to have the effect of requiring payment to said Worthington of his pay as colonel of volunteers from date of last payment, November twenty-first, eighteen hundred and sixty-two, to the date of his honorable discharge, January eighth, eighteen hundred and sixty-seven, if it be found that he was wrongfully "cashiered," or to preclude such payment, if otherwise found.

Said Worthington shall notify the commanding officer of said military district of his readiness to appear before said court, and he shall have reasonable notice of the time of the assembling of the same.]

AMENDMENT PROPOSED BY THE COMMITTEE.

Strike out all in brackets and insert:

That the Secretary of War be, and he hereby is, authorized and required to settle and adjust the account of Colonel Thomas Worthington, Forty-sixth regiment Ohio Volunteer Infantry, engaged in the service of the United States during the late war, by crediting and paying him, in addition to what he has already received on account of said services, the sum of $962.49 dollars; being the amount of pay to which he would have been entitled as colonel of volunteers from November twenty-first, eighteen hundred and sixty-two, the date of his last payment, to March 1, 1863: *Provided*, That this compensation shall be accepted and receipted for by said Worthington as a full satisfaction of all claims on his part against the United States on account of said military services.

According to tabular statement, published in the back of Army Register for 1878, the pay of a colonel is set down as $3,500.

Under the order of Military Committee, taking $3,500 as the basis, is—

For 3 months	$875 00
For 9 days	87 49
Total	962 49

Being from November 21, 1862, to March 1, 1863.

O

46TH CONGRESS, 1st Session. | SENATE. | REPORT No. 6.

IN THE SENATE OF THE UNITED STATES.

JUNE 4, 1879.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 446.]

The Committee on Pensions, to whom was referred the bill (S. 446) granting a pension to Jefferson Kinder, report:

That in reply to request to the Commissioner of Pensions for the papers in the case, that officer, under date of April 29, 1879, when transmitting some of them, states that "the declaration, brief, and report of surgical examination have been lost, probably by the House committee last year, consequently the status of the claim cannot be given." The Commissioner also suggests "that the papers be returned to this (his) office, when the claimant will be advised that he can file a new declaration, which will be promptly acted on."

As the lost papers are material to a proper determination of the case, your committee are of the opinion that the suggestion of the Commissioner should be followed, and therefore ask to be discharged from the further consideration of the bill in order that the papers on file with the committee may be returned to the Pension Bureau to the end that new papers may be substituted for those lost.

46TH CONGRESS, 1st Session. | SENATE. | REPORT No. 7.

IN THE SENATE OF THE UNITED STATES.

JUNE 4, 1879.—Ordered to be printed.

Mr. KERNAN, from the Committee on Finance, submitted the following

REPORT:

[To accompany bill S. 62.]

The Senate Committee on Finance, to whom was referred the bill (S. 62) for the delivery to Samuel Lord, jr., receiver, of certain bonds now in the Treasury of the United States, having had the same under consideration, report as follows:

That the State of South Carolina, by virtue of a law passed in 1854, issued bonds to the amount of one million dollars in aid of the Blue Ridge Railroad; that, upon such issue being made, the president, directors, and company of the State Bank of Charleston, S. C., a corporation created under the laws of that State prior to the year 1854, purchased one hundred of such bonds, each being for $1,000, and indorsed and numbered from 801 to 900 (both inclusive). The bonds, so purchased, continued the property of the bank, and in the possession of its officers, from the time of their purchase until 27th of February, 1865. On the day last named the bonds, with other papers and property of the bank, were in the custody of its cashier (Benjamin M. Lee) for safe-keeping, at a country house near Lynch's Creek, Kershaw district, South Carolina, and were then taken from him by a detachment of the forces of the United States under the command of General W. T. Sherman.

In April, 1866, D. Heaton, a special agent of the Treasury Department, transmitted from New Berne, N. C., to the Secretary of the Treasury, four of said bonds, numbered 812, 821, 836, and 837, stating that they had been turned over to him (Heaton), as captured property, by the provost marshal of New Berne, N. C.

The bonds are now in the Treasury Department; and the sum of $479, which has been collected of the coupons for interest on the bonds, has been covered into the Treasury of the United States.

In 1869 the said corporation being insolvent, a receiver of its property and effects was appointed, and Samuel Lord, jr., is now such receiver.

The committee is of the opinion that the receiver is entitled to such bonds, and to the amount collected for interest thereon and covered into the Treasury.

They therefore report to the Senate, with an amendment, the said bill and recommend its passage.

46TH CONGRESS, 1st Session. } SENATE. { REPORT. No. 8.

IN THE SENATE OF THE UNITED STATES.

JUNE 12, 1879.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 625.]

The Committee on Claims, to whom was referred the bill (S. 625) for the relief of the Farmers and Merchants' Bank, Paris, Texas, have duly considered the same, and submit the following report:

The facts are as follows: On March 13, 1879, D. T. Boynton, United States pension agent at Knoxville, Tenn., drew a Treasury check, dated March 13, 1879, number 110309, for $1,159.60, in favor of Minerva A. Davis, on the assistant treasurer of the United States at New York, based on voucher number 304, for March, 1879, issued on pension certificate number 97607, and the said check was sent to the said Minerva A. Davis, of Lamar County, Texas, and she, the said Minerva A. Davis, duly assigned, transferred, and delivered the said check to the Farmers and Merchants' Bank of Paris Lamar County, Texas, in consideration of the face value paid to her in money by said bank. On March 25, 1879, the Farmers and Merchants' Bank of Paris, Tex., indorsed said Treasury check to Donnell, Lawson & Co., bankers, of New York, for collection, inclosed the same in a letter directed to the said Donnell, Lawson & Co., bankers, &c., New York City, and duly mailed the same. Neither the letter nor the check has ever been received by Donnell, Lawson & Co., and their present existence cannot be ascertained. The check is lost, payment of the check has been duly stopped, and the check has not been presented at the sub-treasury in New York or elsewhere for payment.

The law in regard to duplicate checks is as follows:

Section 3646. Whenever any original check is lost, stolen, or destroyed, disbursing officers and agents of the United States are authorized, after the expiration of six months, and within three years from the date of such check, to issue a duplicate check; and the Teasurer, assistant treasurers, and designated depositaries of the United States are directed to pay such duplicate checks, upon notice and proof of the loss of the original checks, under such regulations in regard to their issue and payment, and upon the execution of such bonds, with sureties, to indemnify the United States, as the Secretary of the Treasury shall prescribe.

This section shall not apply to any check exceeding in amount the sum of one thousand dollars.

Section 3647. In case the disbursing officer or agent by whom such lost, or destroyed, or stolen original check was issued is dead, or no longer in the service of the United States, it shall be the duty of the proper accounting officer, under such regulations as the Secretary of the Treasury shall prescribe, to state an account in favor of the owner of such original check for the amount thereof, and to charge such amount to the account of such officer or agent.

and copy of report of Major-General Hancock, commanding Department of on Senate bill 243, "to authorize the Secretary of War to release certain lan United States to the people of New York."

Very respectfully, your obedient servant,

G. W. McCRA
Secretary o

Hon. T. F. RANDOLPH,
Chairman Committee on Military Affairs, United States Senate.

ADJUTANT-GENERAL'S OFFI
Washington, June 6

SIR: I have the honor to return herewith the communication of the 4th inst Hon. T. F. Randolph, chairman of the Senate Committee on Military Affairs, ing early report on Senate bill 243, to authorize the Secretary of War to rel tain lands of the United States, situated in Plattsburgh, to the State of New railroad purposes (which accompanied his letter of May 13, 1879), together w of report and map just received from Major-General Hancock, commanding ment of the East, to whom the bill was referred, and who has no objection t coming a law.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEN
Adjutant-G

The Hon. SECRETARY OF WAR.

Report from commanding general, Department of the East (including sketch), up bill 243, to authorize the Secretary of War to release certain lands at Plattsburgh N. Y., to the State of New York for railroad purposes.

[Copy indorsements, with accompanying sketch, on S. 243, "A bill to authorize the Secret to release certain lands of the United States to the people of the State of New York for ra poses," referred to the War Department for information by Hon. T. F. Randolph, chairn Military Committee.]

[1st indorsement.]

ADJUTANT-GENERAL'S OFFI
Washington, May 21

Respectfully referred to the commanding general, Department of the East, report and recommendation.

By order of the Secretary of War.

E. D. TOWNSEN
Adjutant-G

[2d indorsement.]

HEADQUARTERS DEPARTMENT OF THE EA
Governor's Island, May 2

Respectfully referred to the commanding officer Plattsburgh Barracks, make a full report in this matter.

The report will state whether or not the post of Plattsburgh Barracks or t interests there would be prejudiced in the event of the within bill becoming

This paper to be returned as promptly as practicable, with the report a map (on a small scale) showing clearly the portions of the reservation affect proposed legislation.

By command of Major-General Hancock.

W. G. MITCHEI
Captain Fifth Infantry, A. A

[3d Indorsement.]

PLATTSBURGH BARRACKS, *May 2*

Respectfully returned to headquarters Department of the East, map of go lands and sketch of northeast corner, embracing what is desired by railroa and proposed by bill herewith. A B E F shows Hamilton street extended;

TH CONGRESS, } SENATE. { REPORT
1st Session. } { No. 9.

IN THE SENATE OF THE UNITED STATES.

JUNE 17, 1879.—Ordered to be printed.

COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 243.]

Committee on Military Affairs, to whom was referred the bill (S. 243) authorize the Secretary of War to release certain lands of the United tates to the people of the State of New York, beg leave to submit the following report:

The purpose of the bill is to secure a release by the United States to State of New York of a strip of land, not exceeding six rods in dth, of the government reservation in the town of Plattsburgh, nton County, N. Y., for a railroad right of way; and also a piece of nd at Plattsburgh, not to exceed two acres, for depot and other railad purposes, together with the right to occupy the shore of Lake hamplain opposite said premises for the purpose of discharging, reeiving, and storing freights.

The bill also provides that the Secretary of War be authorized and empowered, at his discretion, to lay out and continue Hamilton street, in the town of Plattsburgh, across the lands of the United States, to the lot or piece of land which may be released to the people of the State of New York.

The Secretary of War has furnished the Committee on Military Affairs with a letter from the Adjutant-General of the Army bearing upon the subject, and a copy of a report made by Maj. Gen. Winfield S. Hancock, commanding the Department of the East, which embraces a map of the government reservation at Plattsburgh. The map indicates, by marked lines, the land to be released, and the report furnishes in detail all matters relating to the subject of release. General Hancock concludes his report by saying, "Under the circumstances, I see no objections to the proposed bill becoming a law.

In view of the facts presented, your committee feel warranted in recommending the passage of the bill, with an amendment authorizing the sale of the small parcel cut off by the said s treet extended.

Letters of the Secretary of War and Adjutant-General of the Army and the report of Major-General Hancock are hereto annexed:

WAR DEPARTMENT,
Washington City, June 7, 1879.

SIR: I have the honor to transmit herewith a map of the United States reservation at Plattsburgh Barracks, New York, together with a report of the Adjutant-General

and copy of report of Major-General Hancock, commanding Department on Senate bill 243, "to authorize the Secretary of War to release certain United States to the people of New York."

Very respectfully, your obedient servant,

G. W. McCR
Secretar

Hon. T. F. RANDOLPH,
Chairman Committee on Military Affairs, United States Senate.

ADJUTANT-GENERAL'S OF
Washington, Jun

SIR: I have the honor to return herewith the communication of the 4th in Hon. T. F. Randolph, chairman of the Senate Committee on Military Affai ing early report on Senate bill 243, to authorize the Secretary of War to r tain lands of the United States, situated in Plattsburgh, to the State of Ne railroad purposes (which accompanied his letter of May 13, 1879), together of report and map just received from Major-General Hancock, commanding ment of the East, to whom the bill was referred, and who has no objection coming a law.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSE
Adjutant-

The Hon. SECRETARY OF WAR.

Report from commanding general, Department of the East (including sketch), up bill 243, to authorize the Secretary of War to release certain lands at Plattsburgh N. Y., to the State of New York for railroad purposes.

[Copy indorsements, with accompanying sketch, on S. 243, "A bill to authorize the Secret to release certain lands of the United States to the people of New York for r poses," referred to the War Department for information by Hon. T. F. Randolph, chair Military Committee.]

[1st indorsement.]

ADJUTANT-GENERAL'S OFFI
Washington, May 2

Respectfully referred to the commanding general, Department of the East, report and recommendation.

By order of the Secretary of War.

E. D. TOWNSE
Adjutant-

[2d indorsement.]

HEADQUARTERS DEPARTMENT OF THE E
Governor's Island, May 2

Respectfully referred to the commanding officer Plattsburgh Barracks, make a full report in this matter.

The report will state whether or not the post of Plattsburgh Barracks or t interests there would be prejudiced in the event of the within bill becoming

This paper to be returned as promptly as practicable, with the report a map (on a small scale) showing clearly the portions of the reservation affect proposed legislation.

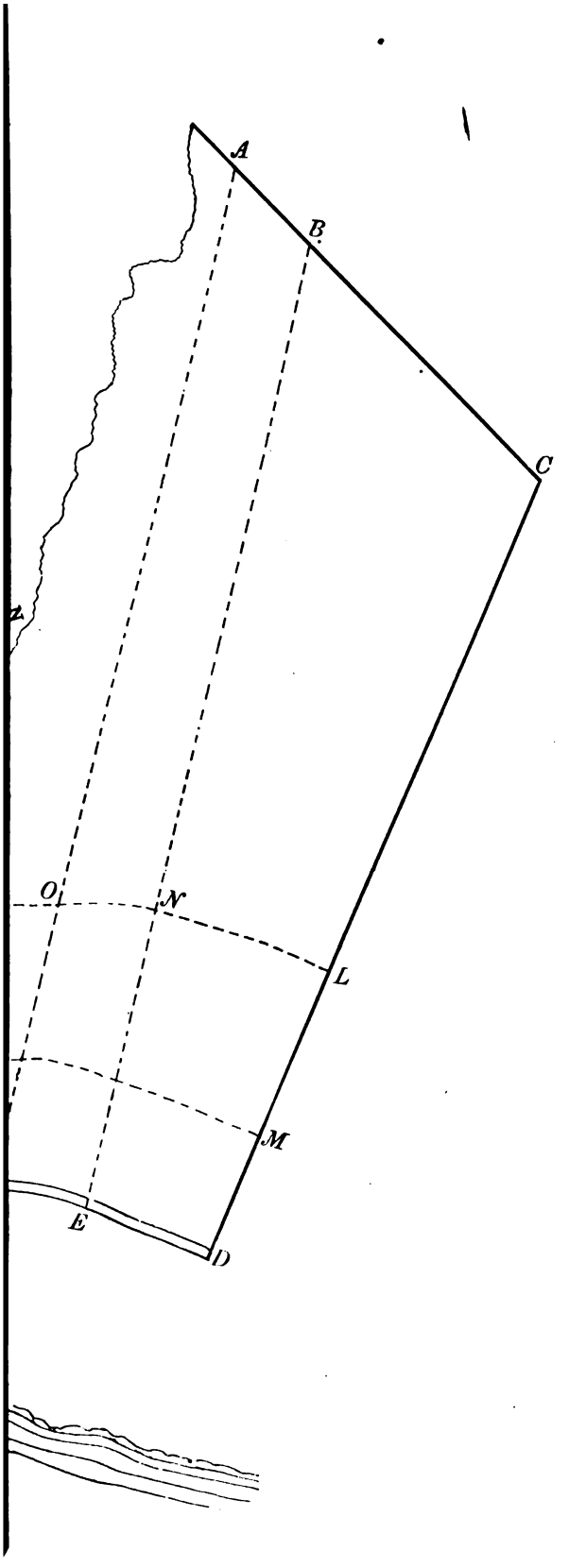
By command of Major-General Hancock.

W. G. MITCHE
Captain Fifth Infantry, A.

[3d Indorsement.]

PLATTSBURGH BARRACKS, *May 2*

Respectfully returned to headquarters Department of the East, map of go lands and sketch of northeast corner, embracing what is desired by railro and proposed by bill herewith. A B E F shows Hamilton street extended;


A
B
C
O
N
L
M
E
D

a section of roadway six rods in width; K P M L, a piece or lot of land two acres in extent for depot purposes; K G D L, including above piece and roadway, contains three and one-half acres. The width of roadway to be granted south of depot grounds is a matter of but little importance to this post or government, provided it is contiguous to the Ausable Branch of D. and H. C. R. (W. and P. R. R.), the soil being poor and sandy, but at the north extremity the soil is very good. A roadway but four rods in width was granted other roads. The piece B C L N, containing nearly two acres, would remain cut off by Hamilton street, and of no available good to the garrison, and only an expense to take care of it. I would recommend the sale of the piece so cut off. The broken line D E F G H shows present railroad fence inclosing, with the lake shore, the roadways of both Ausable Branch (W. and P. R. R.) and D. and H. C. C. R. (N. Y. and C.). If only two acres are granted in northeast corner, inclusive of roadway, the lot K G D L could be reduced by cutting off from the south end only or both front S D and depth G K. For depot purposes an extended front on the track is desired, and in the interest of the government that would be the most unsalable plot, and therefore best to release. The immediate interests of the post of Plattsburgh or government will not, in my opinion, be prejudiced by the release of lands as proposed in the bill.

L. L. LIVINGSTON,
Captain Third Artillery, Commanding.

[4th indorsement.]

HEADQUARTERS DEPARTMENT OF THE EAST,
Governor's Island, New York Harbor, June 2, 1879.

Respectfully referred to Maj. Richard Arnold, Fifth Artillery, acting assistant inspector-general (who commanded at Plattsburgh Barracks for a considerable period), for remark.

To be returned.

By command of Major-General Hancock.

W. G. MITCHELL,
Captain Fifth Infantry, Acting Assistant Adjutant-General.

[5th indorsement.]

INSPECTOR-GENERAL'S OFFICE,
DEPARTMENT OF THE EAST,
Governor's Island, June 4, 1879.

Respectfully returned to the assistant adjutant-general of the department.

The portion of the reservation through which it is proposed to run the Dannemora Railroad is of no special value, being sandy and unproductive; and as no new lines are established, but only the extension of those already granted, I do not think the interests of the government, in a military point of view, would be prejudiced by granting the right of way asked for by the accompanying bill.

The two (2) acres asked for depot purposes I regard of little or no value, and are so located that they can be released for private purposes without detriment to the property.

I fully agree with Captain Livingston as to the propriety of selling the two acres of ground left outside of the main track by the extension of Hamilton street, and for the reasons given by him.

The extension of Hamilton street is necessary to afford communication with the depot grounds.

RICHARD ARNOLD,
Major Fifth Artillery, Acting Assistant Inspector-General.

[6th indorsement.]

HEADQUARTERS DEPARTMENT OF THE EAST,
Governor's Island, New York Harbor, June 4, 1879.

Respectfully returned to the Adjutant-General of the Army.

No new lines through the reservation at Plattsburgh seem to be contemplated by this bill, only the extension or widening of those already granted; and under these circumstances I see no objections to the proposed bill becoming a law.

WINFD. S. HANCOCK,
Major-General, Commanding.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 10.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions having examined the petition, and papers accompanying, of Samuel M. Thatcher, asking for a pension on account of disease of the eye contracted in the service of the United States, find that the claim has been thrice rejected by the Pension Bureau on the ground that no disability exists. The unanimous reports of three separate boards of examining surgeons would seem to establish the fact as far as it is possible to do so. A slight shortsightedness (myopia) is the only defect ascertained by them to exist.

Under these circumstances the committee ask to be discharged from the further consideration of the petition.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 11.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Zenas Herrick, asking for arrears of pension, have examined the same and report:

The petitioner was drafted into the Army of the United States at New London, N. H., on or about October 2, 1814, and was honorably discharged at Portsmouth November 22, 1814. He applied for and received a bounty-land warrant for his services. He applied for a pension under the act of March 9, 1878, and was granted a pension at the rate of eight dollars per month.

He now asks "to have his pension extended back to the time the injuries were received." There was not any evidence before the committee tending to show that he sustained any injury while in the service. Had he received any pensionable injury while in the service, he would have been entitled to a pension under the laws granting pensions to soldiers disabled in the service in the war of 1812. The pension he is now receiving was granted for service and not for disability. His entire term of service was fifty-one days, and if his pension were "extended back" to the date of his discharge, he would receive, beside his pay while in the service and the bounty-land warrant already received, nearly the sum of seven thousand dollars as arrears, in addition to his yearly pension for life of eight dollars per month.

Your committee are of opinion that the compensation asked for the service rendered is excessive, and are also of opinion that if the allowance of arrears of pension shall be further extended such extension shall be by general law and not by special act. For these reasons your committee ask to be discharged from the further consideration of the petition.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 12.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Squire Moon, praying for increase of pension, have examined the same and report:

That the petitioner served with Second Regiment United States Dragoons in the Florida war; that while in that service he contracted disease by which he was disabled from further service, and was in consequence discharged; that during the war with Mexico he was commissioned as first lieutenant Tenth Regiment Infantry, and put on recruiting service, and was sent with recruits to Mexico. He was pensioned at the rate of eight dollars per month in 1850. He is now old, and claims that his present pension is not sufficient for his support, and asks for an increase of pension. He claims that he is totally disabled from performing any manual labor.

Under existing law his pension can be increased by the Pension Bureau if it shall be established that he is totally disabled as claimed. The committee do not deem it advisable to provide by special act for the relief of persons to whom relief can be granted under the general law, and therefore ask to be discharged from the further consideration of the petition.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 13.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Phebe A. Grivet, praying for an increase of her pension, have examined the same and report:

That the petitioner is the widow of John V. Grivet, late acting master and pilot, United States Navy, and that she has been receiving a pension of twenty dollars per month since October 12, 1865, which appears to be the full amount to which she is entitled under existing law. Your committee do not find any sufficient reason for making the case of petitioner an exception to the general rule, and ask to be discharged from the further consideration of the petition.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 14.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of David H. Myers, late a private in Company A, Second Regiment New Jersey Cavalry, respectfully report:

That as it appears from the papers filed with the committee that no application has been made to the Bureau of Pensions, and as a rule of the committee requires that such application be made, and the decision of the Commissioner had, before taking action, the committee ask to be relieved from the further consideration of the petition, and that the same be referred to the Commissioner of Pensions.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 15.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Amelia B. Parsons, having had the same under consideration, report:

The petitioner presented her claim to the bureau in 1866. It was rejected in 1869, upon the ground that her husband was neither commissioned nor mustered as an officer, nor enlisted as a soldier.

The Senate Committee on Pensions had the claim under consideration during the Forty-second Congress, and reported adversely. (Third session, Report 264.) No new evidence has been submitted, and the committee, therefore, ask to be discharged from the further consideration of the case.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 16.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Henry Williams, respectfully report:

The claimant is an inmate of the National Military Home, at Hampton, Va. His claim has been rejected at the Pension Office because there is no record evidence of the alleged disability. The defect is not supplied by satisfactory testimony of any description. No new evidence is submitted. The committee do not find any ground to reverse the decision of the Commissioner, and ask to be discharged from further consideration of the petition.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 17.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Margaret Cahill, respectfully report:

Cahill was captain Company I, Second Regiment United States Cavalry. He was twenty-six years in military service, having been wounded severely in the Mexican war, and in battle with the Indians in 1859. He died in Dakota Territory February 6, 1868. The records of the War Office show that the cause of his death was "delirium tremens." The application of his widow for pension was rejected on the ground that the soldier did not die of disease contracted in the line of duty in the service of the United States.

To rebut the record, Mrs. Cahill presents the affidavits of Michael Flynn and M. H. Wolfe, who testify that they knew Cahill, and were with him when he died; that he was not in the habit of drinking to excess; that they gave him some whisky to stimulate him in his last illness; that the attending surgeon smelled his breath, and on this account certified that he died of delirium tremens.

Flynn signs the affidavit with his mark. Both are evidently prepared by the same person, and bear date in February, 1879.

The application does not appear to be sustained by competent evidence, and the committee therefore ask to be discharged from further consideration of the petition.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 18.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the papers and petition in the case of Jacob S. Hunt, report:

Hunt was captain of Company G, Fifth Regiment Iowa Volunteers. He was mustered July 16, 1861, and resigned January 10, 1862. He alleges that he was captured at Boonville January 2, 1862, and while endeavoring to escape fell into a rocky ravine, injuring his leg, causing a disability from which he still suffers. There is no record evidence to sustain the claim.

His resignation was indorsed by the colonel of his regiment as follows:

Respectfully forwarded and recommended, Captain Hunt being physically unable to perform his duty, having been reported sick three days out of four since mustered into service, and is further utterly disqualified by his inefficiency as an officer.

W. H. WORTHINGTON,
Colonel Fifth Iowa Volunteers.

The alleged injury was received two days after his unconditional resignation. His declaration for pension was filed February 27, 1873, and the claim was rejected January 16, 1878. A bill for his relief (S. 1059) was introduced in the Forty-fifth Congress and reported adversely. No new evidence has been submitted.

The committee ask to be discharged from further consideration of the case.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 19.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. CALL, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of James Rose, late private of Ninth Light Battery, Wisconsin Volunteers, respectfully report:

That no application having been filed in the Pension Bureau under the general law, the committee cannot, under its rules, take action thereon; and ask to be relieved from the further consideration of the petition, and that it be referred to the Commissioner of Pensions.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 20.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 362.]

The Committee on Pensions, to whom was referred Senate bill 362, report:

Amos Williamson was lieutenant-colonel Eighth Regiment Missouri State Militia. He was mustered as lieutenant March 1, 1862; as lieutenant-colonel, May 2, 1862; and mustered out March, 1863, on account of the consolidation of his regiment. He died in Saint Clair County, Missouri, February 22, 1872, of chronic bronchitis. His widow filed her application for pension in 1872, which was rejected September 27, 1875, on the ground that the disease of which the soldier died did not originate in service and line of duty. The soldier himself filed no application.

There is some confusion in the testimony upon several important points. Mrs. Williamson swears that she was married to the soldier on the 20th day of July, 1856. Two of her witnesses swear that the soldier's first wife did not die till December 16 in that year. She also swears that her first child was born May 29, 1857; and in another affidavit that he was born in 1859. In another place the date of the marriage is fixed in 1858. There is evidence that Williamson suffered with acute bronchitis while in the service, from which it appears that he fully recovered. The testimony relative to the physical condition of the claimant after his discharge till the time of his death is meager, and insufficient to satisfy the committee that the decision of the Commissioner should be reversed. They therefore recommend that the bill do not pass.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 21.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 260.]

The Committee on Pensions, to whom was referred Senate bill 260, report:

The claimant alleges that he served in Captain Goss's company, New Hampshire militia, from about May 1 to July 1, 1814, as a substitute for David McCleary. The roll of the company shows, however, that one Asa Pettengill served as the substitute for McCleary, and the claim was rejected by the Commissioner upon the ground that parole evidence could not be accepted by the bureau to controvert the records of the War Office. To fortify his claim Mr. Aiken submits the joint affidavit of Francis Manter and Benjamin Adams, dated July 19, 1878. They allege that they were comrades of Aiken, and are personally cognizant of the fact of his service in Captain Goss's company. They do not, however, confirm the declaration that he served as a substitute for David McCleary, which is a material fact in Aiken's application. The conflict in the testimony is irreconcilable, and the fact that Aiken obtained a land warrant in 1856 does not cure the defects. The case having been fully examined by the bureau, by the Secretary of the Interior upon appeal, and no new evidence being presented, the committee are not inclined to disturb the decision, and recommend that the bill do not pass.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 22.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 184.]

The Committee on Pensions, to whom was referred Senate bill 184, *report:*

Robert L. Hancock claims a pension as the surviving dependent father of Levi, late of Company H, Fifty-seventh New York Volunteers, who died July 10, 1864, of wounds received at the battle of the Wilderness, May 6, 1864. The claimant also lost another son in the war—Daniel R., Company D, Second New Jersey Cavalry, who died in prison at Andersonville, Ga., August 17, 1864. The claim was rejected at the bureau because the fact of dependence was not satisfactorily established. The original application was filed May 12, 1875, and rejected December 10, 1878.

It appears from the evidence that the claimant is in moderate circumstances, having supported himself by farm labor, doing odd jobs of work for his neighbors, keeping a small shop, dealing in fruits and provisions, and in other ways earning a precarious subsistence. There is no proof of any special disability or dependence during the soldier's lifetime, and none at present except that arising from inconvenient obesity and the infirmities of advancing age.

This case was fully investigated by a special agent of the Pension Office. The report shows that while the claimant may have received contributions from his children he was not dependent upon them, and is not so disabled as to be incapable of supporting himself. He has one son now living, in comfortable circumstances, who would be willing to take care of his father if he required assistance.

The fact that the claimant allowed ten years to elapse before making any effort to obtain a pension, shows that his necessities could not have been very great, and that the assistance rendered by his son could not have been very regular, constant, or essential to his existence.

The committee recommend that the bill do not pass.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 23.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 535.]

The Committee on Pensions, to whom was referred S. bill 535, report:

This claim is pending before the Commissioner of Pensions, awaiting a response to request for certain explanatory evidence which has not been furnished. Under the rules adopted by the committee, they cannot consider a claim that has not been acted upon adversely by the Pension Office. They therefore recommend that the bill do not pass.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 24.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. CALL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 499.]

The Committee on Pensions, to whom was referred the bill (S. 499) granting a pension to Lee R. Seaton, respectfully report:

That no application for a pension has been made by the claimant to the Commissioner of Pensions.

The committee recommend that the bill do not pass, that the claim be referred to the Commissioner of Pensions, and that the committee be relieved from its further consideration.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 25.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 154.]

The Committee on Pensions, to whom was referred the bill (S. 154) granting a pension to John Smith, have examined the same, and report:

The claimant was a private in Company D, First Regiment Maine Volunteer Cavalry. His claim for pension was rejected by the Pension Bureau "because it was barred under the provisions of section 4717, Revised Statutes." Since the rejection of his claim said section 4717 has been repealed, and the Pension Bureau is now empowered to further consider the claim on its merits.

Your committee are clearly of opinion that it is inexpedient for Congress to pass special acts granting pensions to claimants whose claims are pending or may be prosecuted before the Pension Bureau, and therefore recommend that the committee be discharged from the further consideration of this bill.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 26.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 277.]

The Committee on Pensions, to whom was referred the bill (S. 277) granting a pension to A. L. Anderson, have examined the same, and report:

The claimant avers that he was captain of Company H, Eighty-eighth Regiment Ohio Volunteers, and that while in the service he was so disabled as to entitle him to a pension. Upon application to the Commissioner of Pensions, that officer reports to your committee "that another careful search of the records has been made, which fails to show that he (the claimant) has ever applied for pension under the general laws."

Your committee are clearly of opinion that it is inexpedient for Congress to pass special acts granting pensions to persons whose claims have not been passed upon by the Pension Bureau, and therefore ask to be discharged from the further consideration of this bill.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 27.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT

[To accompany bill S. 412.]

The Committee on Pensions, to whom was referred the bill (S. 411) granting a pension to John H. Ferrell, have considered the same, and report:

The letter of the Commissioner of Pensions, transmitting the papers in this case, shows that "the claim is still pending" (in the Pension Bureau), "and awaits the receipt of evidence of commissioned officer showing circumstances under which the alleged disability was incurred, which evidence has been repeatedly called for."

The committee deem it inexpedient to pass upon any claim pending before the Commissioner, and therefore ask to be discharged from the further consideration of this bill.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 28.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 477.]

The Committee on Pensions, to whom was referred the bill (S. 477) *for the relief of General Ward B. Burnett, have examined the same and report:*

That petitioner has been for several years receiving a pension of $30 per month for disability incurred during the war with Mexico; that on the 4th of March, 1879, his pension was increased by act of Congress to $50 per month. He now asks to have his pension increased to $100 per month.

Your committee are of opinion that the prayer of the petitioner should not be granted, and ask to be discharged from its further consideration.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 29.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following:

REPORT:

[To accompany bill S. 427.]

The Committee on Pensions having examined the bill (S. 427) granting a pension to Frank Donohue, late private Company D, Seventh United States Cavalry, with the accompanying papers, find that said applicant received a gunshot wound on or about the 13th of November, 1873, resulting in paralysis of the lower extremities. His application for pension was rejected because the injury was not received in the line of duty. An examination of the official records shows that at the time the injury was received said soldier was on detached duty under command of Lieut. L. M. Morris, first lieutenant Twentieth United States Infantry. This officer officially reports, under date August 15, 1876, as follows:

On or about the middle of November, 1873, I was detailed to conduct a supply train from Fort Totten, Ariz., to Fort Seward, Dak. Private Frank Donohue, Company D, Seventh Cavalry, was on duty as teamster with the train. After our arrival at Fort Seward, Private Frank Donohue, with other soldiers, visited Jamestown, a small village near Fort Seward, and while there became engaged in a fracas and was severely wounded by a pistol-shot fired by a fellow-soldier.

The following transcript from the records of the hospital corroborates this statement. Surgeon Woodward states:

It appears from the records of this office that Private Frank Donohue, Company D, Seventh United States Cavalry, aged twenty-four years, was admitted to post hospital, Fort Seward, Dak., November 14, 1873, in an intoxicated condition with a penetrating bullet wound in the left lumbar region, near the fourth lumbar vertebra; there was no wound of exit, and he was discharged the service July 24, 1874, because of complete paralysis of the lower extremities, the result of gunshot wound.

This committee, being of opinion that the injury was not received in the line of duty, feel constrained to report adversely on the bill, and ask that the same be indefinitely postponed.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 30.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 552.]

The Committee on Pensions, having duly examined the bill (S. 552) granting a pension to Marshall D. Ellis, late second lieutenant Company E, Sixth United States Colored Troops, together with the papers accompanying, find that the claim is still pending and before the Pension Bureau, and therefore ask to be relieved from its further consideration pending the action of the Commissioner of Pensions.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 31.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 336.]

The Committee on Pensions, to whom was referred the bill (S. 336) granting a pension to Philip Braunstetter, late a private, Company D, First Regiment United States Mounted Rifles, Mexican war, having examined the bill and accompanying papers, find that the claim was rejected at the bureau under the provisions of section 4717 Revised Statutes. As this section has been repealed, and claimant can now proceed to file the required evidence before the Commissioner of Pensions, the committee ask to be relieved from the further consideration of the bill, and that the same be referred to the Pension Bureau.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 32.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 342.]

The Committee on Pensions, to whom was referred the bill (S. 342) granting a pension to Charles Reed, have examined the same, and report:

That the petitioner enlisted in fall of 1861, in Company H, Eleventh Iowa Infantry Regiment, and was honorably discharged on July 15, 1865. (These facts are corroborated by the War Department records.) That prior to enlistment he was sound in body and health, of great physical strength, and free from any disease; that while in line of duty, on skirmish line, near Atlanta, Ga., on July 4, 1864, he was sun-struck, which occurred again near same place on 21st of same month; that he was treated for said disease by Dr. John G. Miller, assistant surgeon of his regiment, whose present whereabouts he cannot ascertain.

Elizabeth Reed, petitioner's wife, Henry Hanson, and Henry Beechmann all testify to petitioner's soundness at and before enlistment, and of his disability and nervous prostration and inability to stand exposure to the sun since leaving the service. Benjamin Beech, captain of claimant's company, testifies to petitioner's good record as a soldier, to the sun-strokes alleged, and that petitioner thereafter was rendered unfit for severe duty while in service, and that his disability has continued and increased since his muster out of the service.

The report of the board of examining surgeons, dated Muscatine, Iowa, November 7, 1877, describes petitioner's disability, and contains the following opinion: "Judging from his present condition and from the evidence before us, it is our belief that the said disability did originate in the service aforesaid and in the line of duty. The disability is permanent, * * and he is one-half incapacitated from obtaining his subsistence by manual labor."

The Commissioner of Pensions reports, January 3, 1879, that the claim was rejected February 1, 1878, on the ground that there was no record evidence of the alleged disability, and because of claimant's inability to furnish the necessary testimony to connect it with his military service.

Your committee are of opinion that the evidence satisfactorily establishes the fact that the soldier is disabled by disease contracted in the service and in the line of duty. They recommend that the bill be amended by striking out in lines six and seven the words "at the rate of ——— dollars per month," and that the bill so amended be passed.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 33.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 341.]

The Committee on Pensions, to whom was referred Senate bill 341, *report:*

Peter Getert was a member of Company C, Sixteenth Regiment Iowa Volunteers. He enlisted November 12, 1862, and was discharged November, 1875. The records of the War Department fail to show treatment for any disease while in the service. He claims pension by reason of scurvy and rheumatism contracted while a prisoner of war at Andersonville in 1864. He furnishes evidence that he was sound and healthy when enlisted, and at the time of his capture.

Two of his comrades testify to an attack of scurvy while at Andersonville, which soon after his exchange developed into extensive ulceration of the left leg, which has continued to the present time, accompanied by inflammatory rheumatism of an aggravated type.

The board of examining surgeons at Muscatine, Iowa, certify, June 5, 1878, that they had carefully examined Getert, and found him suffering from disease of left leg, caused either by scurvy or varicose veins. They concluded that his disability originated in the service of the United States, in the line of duty.

They fixed the rate of his incapacity at three-fourths; and concurring with them, the committee recommend that the bill do pass, with an amendment in the sixth line by inserting the word "six" before "dollars" in line seven.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 34.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 376.]

The Committee on Pensions, to whom was referred Senate bill 376, report:

Hiram Johnson was a private Company A, Seventy-ninth Illinois Volunteers. He enlisted July 15, 1862, and was discharged March 2, 1863, upon surgeon's certificate of disability, resulting from scrotal hernia. He applied for pension November 17, 1869, and his claim was rejected April 4, 1877, upon the ground that the hernia existed before enlistment. There is evidence tending to show that Johnson had scrotal hernia in childhood, but this appears to have been cured. The soldier was carefully examined at the time of his enlistment, and accepted as a sound, healthy recruit. This action on the part of the government ought to be regarded as conclusive upon the question. The evidence is clear that while marching, in the night in October, 1862, near Perryville, Ky., he fell into a ditch, and was so badly ruptured that he was compelled to retain the parts with his hands in order to continue the march to Nashville, where he remained in general hospital till discharged, as above stated. The disability has continued to the present time, but the committee are unable to determine the degree; the latest evidence on this point being the certificate of an examining surgeon in 1872, at which date his incapacity was rated at one-half.

The committee therefore report the accompanying bill, leaving the determination of this point to the Commissioner, as a substitute for bill 376, with the recommendation that it do pass.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 35.

IN THE SENATE OF THE UNITED STATES.

December 4, 1879.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 475.]

The Committee on Pensions, to whom was referred Senate bill 475, report:

Henry J. Churchman was a surgeon in the United States Army, who alleges that while with Sherman on his march to the sea he was injured by riding a rough horse, which caused urethral stricture, resulting in cystitis, which continues even unto this day, disqualifying him from participating in the active affairs of life. His claim was rejected at the Pension Office because the records failed to show the origin of the disability or its treatment in hospital, and the claimant was unable to furnish evidence, by affidavit of an officer or otherwise, that he was treated while in the service. Under the rules, the action of the commissioner was correct, but the case appears to have unusual claims to equitable consideration. Dr. Churchman seems, from many testimonials on file, to be a gentleman of unusually high character and of most exemplary life. The evidence establishes incontrovertibly the fact that he was in perfect health prior to and at the date of his enlistment. He left the service in July, 1865, and the testimony of Dr. Carpenter shows that within one month thereafter he was treated for the diseases for which he now claims pension. He has since that time been continuously under the care of the most eminent surgeons in New York, Philadelphia, and Virginia, and remains an incurable invalid.

The only question for the committee to consider is whether the claimant did contract stricture and cystitis while in the military service of the United States and in the line of duty, and from the cause alleged.

All the other conditions necessary to establish his claim are satisfactorily proved, but upon this point the affidavit of Dr. Churchman is the only evidence. Had there been other proof, the case would have been admitted by the Commissioner. Under all the circumstances, the committee regard the claim as one which appeals strongly to the exercise of their discretionary powers, and they therefore recommend that the bill do pass.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 36.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. CALL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 367.]

The Committee on Pensions, to whom was referred the bill (S. 367) granting an increase of pension to Isabel L. Evans and Isabel M. Evans, widow and infant child of John J. Evans, deceased, late draughtsman on board the United States vessel Huron, respectfully report:

That the deceased lost his life in the performance of his duty and while in the service. That at the time of his death he was receiving a salary of twelve hundred dollars a year. That the kind and value of the service rendered by the deceased, and the amount of compensation paid him by the government, should equitably determine in the meaning and purpose of the pension laws the amount of the pension. The committee recommend that the bill do pass, and report the same back to the Senate, and ask to be discharged from its further consideration.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 37.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 752.]

The Committee on Pensions, to whom was referred the petition of Crafts J. Wright for increase of pension, report:

The petitioner was colonel of the Thirteenth Missouri Volunteer Infantry, and has been allowed a pension of ten dollars per month, which he alleges is inadequate to afford him the relief to which he is justly entitled. The evidence shows that Colonel Wright is above seventy years of age; that he was fifty-three years old when he entered the service; that he served with distinction in several important engagements, and resigned in September, 1862, on account of physical disability. The condition of the petitioner is such as to render him practically totally disabled, but not "utterly helpless," in the language of the statute. The committee, therefore, recommend the passage of a bill giving the petitioner a pension of thirty dollars per month in lieu of that which he now receives.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 38.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 4, 1879.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 751.]

The Committee on Pensions, to whom was referred the petition of W. B. Whiting, report:

The petitioner entered the naval service of the United States as midshipman, February 2, 1829; was promoted to be lieutenant September 8, 1841; was placed on the retired list as lieutenant under the act of February 28, 1855, in consequence of physical injuries for which he now asks a pension. His claim has been rejected by the Commissioner, upon the ground that the disability for which pension is asked did not originate in the line of duty. His physical condition is deplorable. While under verbal orders to join the Japan expedition, in 1852, he was thrown from a carriage, suffering dislocation of the spine, resulting in paralysis, which renders him a helpless invalid, unable to stand, and requiring the constant care of an attendant to lift him from his bed to a chair.

The committee are of opinion that the disability of which Commodore Whiting complains did occur in the line of duty, and the only remaining question is whether, being upon the retired list, he is also entitled to pension for the same injury which caused his retirement. Section 4724 reads: "No person in the * * Navy * * shall draw both a pension as an invalid and the pay of his rank or station in the service, unless the disability for which the pension was granted be such as to occasion his employment in a lower grade, or in the civil branch of the service."

The case of Commodore Whiting comes clearly within the provisions of the statute. He was subsequently to his injury employed in a lower grade of the service, and, but for that injury, would have had full pay instead of retired pay, and would have remained in the line of promotion.

The committee, therefore, report a bill for his relief, with the recommendation that it do pass.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 39.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 8, 1879.—Ordered to be printed and recommitted to the Committee on the District of Columbia.

Mr. HARRIS, from the Committee on the District of Columbia, submitted the following

REPORT:

In obedience to a resolution of the Senate, adopted June 6, 1879, which provides—

That the Committee on the District of Columbia be, and hereby is, authorized to sit during the next recess of the Senate, to investigate the best means of securing to the cities of Washington and Georgetown an ample supply of pure water; and to ascertain what the water-works now in use, including the aqueduct, reservoir, water-mains, &c., have cost the United States, the District of Columbia, and the cities of Washington and Georgetown; and also the annual income that has been secured therefrom, and how much thereof has been realized; and also the present state of all outstanding debts or liabilities relating to said works; and what additional expenditure will be necessary, if any, to secure an ample supply of pure water; and that the committee report to the Senate, by bill or otherwise, at the next session of Congress—

the committee has had the subject under consideration and submits the following report:

On the 30th of September, 1850, Congress appropriated $500 "to enable the War Department to make such examinations and surveys as may be necessary to determine the best and most available mode of supplying the city of Washington with pure water."

By act approved August 31, 1852, $5,000 were appropriated "to enable the President of the United States to cause the necessary surveys, *projets*, and estimates to be made for determining the best means of affording the cities of Washington and Georgetown an unfailing and abundant supply of good and wholesome water."

By act approved March 3, 1853, $100,000 were appropriated, "to be expended under the direction of the President of the United States, for the purpose of bringing water into the city of Washington upon such plans and from such places as he may approve: * * * *Provided*, That if the plan adopted * * * should require water to be drawn from any source within the limits of Maryland, the assent of the legislature of that State should first be obtained."

On the 21st day of February, 1853, President Fillmore transmitted to the Senate "the report of Lieutenant Meigs, with surveys, plans, and estimates for supplying the cities of Washington and Georgetown with an unfailing and abundant supply of water."

On the 3d day of May, 1853, the legislature of the State of Maryland passed an act granting the consent of that State to the United States

to purchase such lands and to construct such dams, reservoirs, buildings, and other works * * * as may be necessary for the purpose" within that State, but upon the condition "That in the condemnation of lands * * * which may be necessary for said purpose the like proceedings in all respects shall be had as by existing laws are required for the condemnation of lands for the use and construction of the Chesapeake and Ohio Canal"; and the further condition "That this act shall take effect whenever the United States shall agree to such conditions as the Chesapeake and Ohio Canal Company may consider necessary to secure the canal from injury in carrying into effect any plan that may be adopted for supplying the city of Washington with water."

On the 6th day of May, 1853, the president and directors of the Chesapeake and Ohio Canal Company adopted a resolution imposing the following conditions:

1st. That the work to be constructed shall not in any way interfere with the navigation of the canal.

2d. If it shall become necessary to tighten or rebuild any dam below the Great Falls, such tightening or repairs shall be made by the United States.

3d. That the works at Great Falls should be so constructed as to answer the purpose of a feeder to supply the canal from that point to Little Falls.

On the 28th day of June, 1853, the report, plans, and estimates of Lieutenant Meigs were approved by President Pierce, and the work of constructing the conduit and dam was proceeded with.

As appears from the report of Colonel Casey, the engineer in charge of the aqueduct, there has been expended by the Government of the United States to June 30, 1879, in the construction and maintenance of the water-works, $3,784,546.72.

The following table, furnished by the Commissioners of the District of Columbia, from the books of the water registrar's office, exhibits the amount expended by the city of Washington and the District of Columbia on account of the water department, with the receipts therefrom, to June 30, 1879, also the present financial condition of the department; but as no separate account was kept of the expenditures of that department from June 30, 1871, to November 1, 1871, nor from November 1, 1873, to June 20, 1874, the figures presented can be regarded as an approximate estimate only of the cost of the water-works to the city of Washington and District of Columbia. The amount is stated at $1,313,351.17.

For want of proper data the Commissioners of the District of Columbia were unable to inform the committee as to the cost of the water-works to the city of Georgetown; but from information obtained from other sources the committee is warranted in saying that the amount so expended is about $40,000.

[illegible] the amount of unpaid water-main tax, and the amount of outstanding bonds, from its organization to June 30, 1879.

Date.	Expenditures, Washington.	Expenditures, Georgetown.	Amount received by the collector of taxes.	Amount received by the water registrar.	Total receipts.	Water-main tax unpaid.	Outstanding water bonds.
From organization to June 30, 1860	$64, 902 78	The records of Georgetown are in such a condition that it is impossible to even approximate what the expense was.	.....	$5, 903 84	$5, 903 84	This total includes principal and interest.	For description of outstanding water bonds see next page.
From June 30, 1860, to June 30, 1861	54, 707 11		.....	7, 571 89	7, 571 89		
From June 30, 1861, to June 30, 1862	13, 215 42		.....	12, 230 16	12, 230 16		
From June 30, 1862, to June 30, 1863	19, 821 81		.....	12, 787 80	12, 787 80		
From June 30, 1863, to June 30, 1864	28, 534 46		.....	14, 601 18	14, 601 18		
From June 30, 1864, to June 30, 1865	42, 595 15		.....	15, 590 40	15, 590 40		
From June 30, 1865, to June 30, 1866	53, 911 78		.....	31, 567 88	31, 567 88		
From June 30, 1866, to June 30, 1867	65, 394 26		.....	66, 872 61	66, 872 61		
From June 30, 1867, to June 30, 1868	56, 905 62		.....	58, 870 62	58, 870 62		
From June 30, 1868, to June 30, 1869	34, 585 64		$279 12	49, 072 55	49, 351 67		
From June 30, 1869, to June 30, 1870	53, 707 97		97 75	73, 265 30	73, 363 05		
From June 30, 1870, to November 30, 1871	70, 097 04		.....	91, 862 55	91, 862 55		
From June 30, 1871, to November 1, 1871	.....		.....	16, 879 58	16, 879 58		
From November 1, 1871, to November 1, 1873	299, 683 49		.....	145, 202 82	145, 202 82		
From November 1, 1873, to June 20, 1874	.....		.....	69, 457 94	69, 457 94		
From June 30, 1874, to November 1, 1874	10, 840 80		1, 049 29	23, 855 40	24, 904 69		
From November 1, 1874, to November 15, 1875	107, 443 09		14, 882 95	108, 158 37	123, 041 32		
From November 15, 1875, to November 15, 1876	109, 378 59		13, 956 11	97, 541 21	111, 497 32		
From November 15, 1876, to November 10, 1877	82, 336 68		12, 137 59	94, 522 34	106, 659 93		
From November 10, 1877, to June 30, 1878	62, 624 22		96, 792 11	1, 588 13	98, 380 24		
From June 30, 1878, to June 30, 1879	82, 665 56		68, 359 07	.....	68, 359 07		
Total	1, 313, 351 17	.....	207, 553 99	897, 402 57	1, 104, 956 56	$106, 710 90	$423, 000 00

The expenditures from June 30, 1878, to June 30, 1879, includes the cost of erecting the stand-pipe, and amount paid for engines, &c., for same, which was $29, 395 40
Amount paid on same account since June 30, 1879 ..... 3, 237 47

Statement of water-stock outstanding June 30, 1870.

Authority for issuance.	Amount issued.	Rate of interest.	Date of issuance.	Date of maturity.	Registered or coupon.	Amount outstanding.
Act of legislature approved July 20, 1871	$450,000 00	7 per cent.	Oct. 1, 1871	Oct. 1, 1901	Coupon	$397,000 00
Act of legislature approved June 26, 1873	35,000 00	do	July 1, 1873	July 1, 1903	do	26,000 00
Total	485,000 00					423,000 00

WATER REGISTRAR'S OFFICE, *October* 15, 1879.

The total cost of the water-works aggregates as follows:

Amount paid by the United States	$3,784,546 72
Amount paid by city of Washington and District of Columbia	1,313,351 17
Amount paid by the city of Georgetown	40,000 00
Making a total of	5,137,897 89

To which must be added such amounts as may be hereafter paid upon the claims of the Great Falls Manufacturing Company and the Chesapeake and Ohio Canal Company.

The United States has derived no income from the water-works.

The consumption and waste of water in the city is annually increasing, and has reached very nearly the maximum quantity that can be supplied by the three mains now in use, respectively 12, 30, and 36 inches in diameter. The report of Colonel Casey, engineer in charge, shows that the daily delivery for a series of years has been as follows:

	Gallons.
1874	17,554,848
1875	21,000,000
1876	24,177,797
1877	23,252,932
1878	24,885,945
1879	25,947,642

The figures for 1879 represent the present rate of daily consumption. Deducting therefrom 2,626,188 gallons, the quantity shown by recent measurement to be consumed by the United States in the public buildings, parks, fountains, lakes, &c., there remain 23,321,454 gallons for consumption by the citizens of Washington and Georgetown, a population of about 150,000 souls, being an average to each person of 155½ gallons per day.

A table before the committee, compiled from reports of engineers in charge of the water supply of different cities in the United States and Canada, shows the average daily per capita consumption of water in twenty cities to be as follows:

	Gallons per day to each person.
Providence	2[illegible]
Fall River	2[illegible]
Lowell	3[illegible]
Lynn	3[illegible]
Rochester	3[illegible]
Columbus	4[illegible]
Lawrence	4[illegible]
Milwaukee	53
Cambridge	55
Saint Louis	56
Cleveland	56
Cincinnati	57
Philadelphia	58
Brooklyn	63
Montreal	69
Boston	75
Toronto	77

Buffalo	87
Detroit	105
Chicago	119

This table shows an average daily consumption, in the above-named cities, of 58½ gallons to each person. It thus appears that the daily per capita consumption of water in the cities of Washington and Georgetown (155½ gallons) exceeds the greatest per capita consumption in either of the cities named by 36½ gallons; while the average daily consumption to each person in the twenty cities above named is but little more than one-third of the consumption by each person in Washington and Georgetown. The committee is of opinion that an average delivery of 26,000,000 gallons per day is the maximum that can be safely relied upon from the three mains now in use. This quantity, if properly distributed, the committee believes to be an ample supply for the present; but owing to the different altitudes in the city, the distribution cannot be so regulated as to meet the necessities of the higher levels, except by the use of steam-pumps to raise the water. And the pumps now in use, though driven to their full capacity, fail to furnish an adequate supply to the people residing in the more elevated parts of the city. To meet this necessity more pumps must be put to work, or a larger quantity of water must be brought from the Potomac.

The use of steam-pumps involves a large and continuous expense, and they only serve to distribute to the high levels their proportion of the 26,000,000 gallons—the maximum which the mains now in use may be expected to deliver per day; while, by a sufficient increase of quantity, all but the highest points in the city of Georgetown, it is believed, can be amply supplied, and so reduce the area to be supplied by pumps that even a small portion of the pumps now in use will fully supply them.

The committee addressed letters to the Commissioners of the District of Columbia, to Colonel Casey, the engineer in charge of the aqueduct, to General Meigs, who planned and constructed the aqueduct, and to other engineers, asking for such information as they could give and such suggestions as they were inclined to make, as to the best means of securing to the cities of Washington and Georgetown an abundant supply of pure and wholesome water. The Commissioners, Colonel Casey, and General Meigs concur in recommending an increase of supply; and two plans are suggested. Colonel Casey says:

> To increase the supply, it is suggested that another main be laid from the distributing reservoir to Capitol Hill. It should be 3 feet in diameter, and located on a route to be determined from a careful survey. It would convey to Capitol Hill, at an elevation of 115 feet above *datum*, 12,000,000 gallons in 24 hours. The furnishing of this additional quantity of water to the city would render the completion of the Potomac dam a necessity.
>
> This method of relieving the pressing necessities of certain parts of the city is suggested as the most expeditious and least costly method for the immediate relief of Capitol Hill. But looking to the future, when the whole capacity of the conduit may be required to supply Georgetown and Washington, the extension of the conduit from the distributing reservoir to the high grounds north of Washington, and there building a distributing reservoir and connecting it by well-arranged lines of mains with the city distribution pipes, would doubtless be the best solution of the problem.
>
> * * * * * * *
>
> The estimated cost of laying a main 3 feet in diameter, from the distributing reservoir to Stanton Place on Capitol Hill, is $398,948. This estimate is based on the supposition that the main will be about 28,000 feet long, and that iron will cost, delivered at Washington, 1¾ cents per pound.

The Commissioners of the District of Columbia and General Meigs concur in recommending the extension of the conduit as the best means of increasing the supply of water; not agreeing, however, as to the point to which it should be extended, and with, perhaps, slight differences in their estimates of the cost of extension. The Commissioners

recommend that the conduit be extended from the distributing reservoir to a point north of the city, east of Seventh street, and the building of a reservoir of large capacity there, to be connected by a 4-foot main along New Jersey avenue with the principal mains which now radiate from the vicinity of L and G streets, and they estimate the cost as follows:

CONDEMNATION OF LAND.

5½ acres, between gate-house and Fourteenth street, at $500 per acre	$2,750 00
3 acres, between Fourteenth and Nineteenth streets, at $400 per acre	1,200 00
5 acres, between Nineteenth street and Rock Creek, at $300 per acre	1,500 00
1 7/10 acres, between Road and High streets, at $500 per acre	850 00
2 acres, between Ridge and Conduit roads, at $200 per acre	400 00
Improved property on conduit	3,000 00
Making cost of right of way	9,700 00

EXCAVATIONS.

24,900 cubic yards of rock on conduit at $6	$149,640 00
4,930 cubic yards of rock on conduit at $8	39,440 00
1,564 cubic yards of rock on conduit at $3	4,692 00
42,847 cubic yards of earth on conduit at $3	128,541 00
	322,313 00

MASONRY.

1,225 cubic yards of coursed at $5 00 G. A	$6,125 00
400 cubic yards of coursed at $5 50 C. A	2,200 00
6,498,207 brick, including packing, at $30	194,946 21
	203,271 21

TIMBER FOR CONDUIT.

972,760 feet, board measure, at $20 per M	$19,447 20
Making total estimated cost of extension of conduit	$554,731 41
Estimated cost of 4-foot main to connect extended conduit with other mains, 8,200 linear feet of 48-inch main and laying same	91,298 00

To this must be added:

Cost of completing dam at Great Falls	200,000 00
Making total cost for increasing supply by extending conduit	846,029 41

In addition to this increase of supply the Commissioners recommend an additional reservoir, which, they say, "will become necessary in order to deliver the water in a condition fit for domestic purposes," the estimated cost of which is as follows:

CONDEMNATION OF LAND.

40 acres for reservoir, at $500 per acre	$20,000 00
24 4/10 acres around reservoir, at $500 per acre	12,045 00
Improvements in reservoir	37,000 00
Making	69,045 00

EMBANKMENT.

162,500 cubic yards of earth, at 40 cents	$65,000 00
7,550 square yards of paving for slope, at $2.25	16,987 50
48,300 square feet of lining, at $1	48,300 00
	130,287 50

EXCAVATION.

1,138,900 cubic yards earth, at 20 cents	$226,780 00
Gate-house and gates	36,000 00
Making total cost of reservoir	462,512 50
Which added to cost of extension of conduit and of main and dam	846,029 41
Makes a grand total of	1,308,541 91

The plan of relief proposed by General Meigs contemplates the exten-on of the conduit from its present terminus at the distributing reservoir) the high grounds north of Washington, near Tenth and Boundary treets. But the plan by which he proposes to distribute the water hrough the city has features differing essentially from those of any other lan proposed, and which commend themselves to the judgment of the ommittee as practical and deserving serious consideration. In his esponse to the committee, General Meigs says:

I consider that the city needs three separate services: one for all the city lying at n altitude of more than 90 feet above tide—the high service; a second—the middle ervice—for all that lies between 50 and 90 feet above tide; and a third—the low ser-rice—embracing all the rest of the city, which is less than 50 feet above the river.

There are now three principal mains bringing water from the distributing reservoir o Washington, which, after supplying Georgetown with water, all cross Rock Creek, t the western end of Pennsylvania avenue, and then follow separate lines—the length f each being about four and a half miles—to the Capitol, near which they all termi-nate. They are, however, extended by smaller pipes, laid by the government, to the avy-yard, and to the Arsenal at Greenleaf Point, and are connected at nearly every treet-crossing with the system of small distributing pipes which supply the people with water.

I propose that the largest of these mains, the 36-inch pipe on L street, shall be set part for the middle-level service. This includes the circular plateau on the western dge of which the Capitol stands, and the greater part of the city lying north and west of New York avenue. These districts are all above 50 and below 90 feet in alti-tude.

The high service embraces a district of irregular form, lying on Boundary street, northwest, and east and west of Fourteenth street north of N street northwest. It is all above 90 feet in altitude. For this a 20-inch main on Fourteenth street is needed.

All the rest of the city lies below the level of 50 feet above tide, and constitutes the low-service district. It can be conveniently supplied by the 30-inch main now in K street, and by the 12-inch main on Pennsylvania avenue, west of the Capitol, and by he 20-inch main which crosses the park, and the 10-inch which is extended to the Arsenal.

In order that these three separate services may be independent of each other, they eed each its own distinct and separate connection with the conduit and reservoir at ull height. Now, all these mains are connected with 6-inch distributing pipes at oints all over the city; and the needlessly strong pressure, along Pennsylvania ave-ue for instance, robs the pipes in the higher parts of the city. Moreover, the loss of ead in the long main, four and a half miles long, between the reservoir and Capitol Hill, reduces the pressure so that a 36-inch pipe from the distributing reservoir is esti-mated to be able to deliver, at 130 feet above tide, on Capitol Hill, only ten million allons daily.

To make these connections I propose to lay a 51-inch pipe on Ninth street from the onduit to L street, where it will connect with the 36-inch main and feed it, east and est. A 51-inch pipe will be equal in capacity to two 36-inch pipes; and the 36-inch upplying water in both directions, east and west, from this point of connection at inth and L streets, is equivalent to this 51-inch main.

Large pipes of cast iron are heavy, are liable to crack, and are more costly than inner pipes of boiler iron. Therefore, I propose that this 51-inch pipe shall be of oiler iron. It will be 6,300 feet long, and will cost, laid, $75,600, and will supply the iddle service, Capitol Hill and the northwestern part of the city.

To feed the 30-inch pipe, I propose to lay a 42-inch pipe on Thirteenth street be-ween the conduit and the 30-inch main on K street. It will be sufficient to feed the 0-inch pipe both ways, east and west, and through its connections and extensions to upply all that part of the city below 50 feet altitude. It will be 6,800 feet long, and ill cost $61,200.

To supply the irregular district in the northwestern part of the city, which is above he level of 90 feet above tide, I propose to lay a 20-inch cast-iron pipe on Fourteenth treet to P street, northwest. It will be 4,000 feet long, and will cost $20,000. The mall districts above 90 feet, which are on Capitol Hill, will be sufficiently supplied hrough the 36-inch middle-service main and its connections.

For extending the dam at Great Falls to the southern shore of the river, I am of the pinion that a riprap dyke or dam, like that which for over forty years has, at Little alls, fed the Georgetown and Alexandria levels of the Chesapeake and Ohio Canal, ill be sufficient. It can be built for $50,000. I do not think that it is absolutely neces-ary, however, to undertake the completion of the dam at present.

The conduit to Tenth and Boundary will bring nearly the full head of the reser-ir to the northern margin of the city; and as the connecting mains to the heart of

the city will be short and will be separate, the existing supply of 26,000,000 gallons will be so equally distributed that I believe every house will, for some years, have a good head and supply of water without now incurring the expenditure necessary to complete the dam at Great Falls.

A recent measurement of the flow of water through the submerged 9-foot conduit, 2 miles long, connecting the receiving and distributing reservoirs, showed that when the difference of head was 1 foot per mile, this conduit passed 3,300,000 gallons in an hour; or, at the rate of 79,000,000 gallons per day.

The conduit extended to Tenth and Boundary streets will, with a loss of head of 1 foot per mile—3½ feet in all—therefore be able to deliver, at an elevation of 141½ feet above tide, 79,000,000 gallons per day.

General Meigs does not recommend the construction of an additional reservoir at the terminus of the extended conduit, believing that the benefits to be derived therefrom will not compensate for its cost, and holding that the collection of a large body of water upon the high grounds overlooking a crowded city must necessarily be a constant menace to the lives and property of its inhabitants.

Of the cost of extending the conduit to Tenth and Boundary streets, laying the pipes to connect it with the mains now in use, and building a riprap dam across the Virginia channel of the Potomac at Conn's Island, General Meigs has furnished to the committee the following

ESTIMATE.

51-inch boiler-iron pipe for middle service, 6,300 feet	$75,600
42-inch boiler-iron pipe for low service, 6,800 feet	61,200
20-inch cast-iron pipe for high service, 4,000 feet	20,000
Land damages, right of way under strip 10 feet wide over tunnel and ¼ acre at shaft, say, in all, 10 acres	8,200
Conduit, 3½ miles long	460,000
	625,000
To which, if it be determined at this time to complete the Potomac dam, add	50,000
Total	675,000

The committee is of opinion that it is unwise to expend money upon any temporary expedient to remedy the present evil, when it can be better remedied by a permanent improvement in the completion of a great and important work—the completion of which will, at no very distant day, become an absolute necessity. The cost of laying a 36-inch cast-iron main from the distributing reservoir to Stanton Place on Capitol Hill is estimated at $398,948. The cost of extending the conduit to the point suggested by the Commissioners, and of the pipe required to connect it with the present mains is estimated at $646,029.41; and to the point suggested by General Meigs, with necessary connecting mains, at $625,000. The cost, therefore, of extending the conduit to the point east of Seventh street, with its necessary connections, exceeds the cost of the 36-inch main to Capitol Hill by $247,081.41; and the extension to Tenth and Boundary, with necessary connections by only $226,016.

The maximum increase which can be expected from the 36-inch main is 12,000,000 gallons per day; while the supply will be increased more than 40,000,000 gallons per day, by extending the conduit. The water will also be delivered at a higher level and with much greater head.

The completion of the Potomac dam by extending it across Conn's Island and the Virginia channel and increasing the height of those sections already constructed across the Maryland channel and Falls Island, would insure a large increase of the supply of water, and render the flow uniform and reliable at all stages of the river. The work would, it is estimated, cost $200,000. But this estimate is for a dam of cut stone masonry. If it should found that a dyke of loose stone would fulfill the

quality of the water cannot be greatly improved, unless some
s of filtration is adopted. Colonel Casey suggests an admirable
or filtration and clarification; but the filter-beds and reservoir
ary to filter 26,000,000 gallons in twenty-four hours are estimated
t $913,400; and the estimated annual expense of maintenance
ttendance is set down at $28,470. In view of the fact that so
proportion of the water delivered in the city—more than one-half
-is, if not wasted, not devoted to any domestic purpose; and in
eration of the great expense incident to clarification, the com-
recommends that an ample supply be delivered, leaving the con-
to filter or not, as each may determine for himself.

Government of the United States undertook this great work of
ing "to the cities of Washington and Georgetown an unfailing and
dant supply of good and wholesome water." It has, at its own ex-
, constructed the works and laid a large portion of the principal
s which supply the two cities. But to complete the work, put it in
ition for the government and people to reap the full benefit of this
work, additional expenditures must be made. Believing there should
o divided ownership, interest, or control, but that the government
ld have the complete and absolute ownership and control of the
conduit, reservoirs, and principal mains, the committee recommends:
hat the expense of completing the dam, extending the conduit, and
ng the connecting mains be paid by the United States; and that the
horities of the District be permitted as heretofore to lay such pipe as
be necessary to distribute the water to the people, and to erect
fountains as will supply the necessities of persons not able to have
er brought into their houses.

he committee thinks it proper to submit to the Senate the following
s respecting the title to the land on which the dam at Great Falls
cated, and certain claims which are being urged against the United
tes for damages which it is claimed have been sustained by reason of
construction of the dam and aqueduct. The committee finds that
United States has the conveyance of one of two tenants-in-common
tract of land at Great Falls, lying partly on the eastern shore of the
tomac, and extending across the Maryland channel of the river, and
bracing Falls Island, on which rests about one-half the present dam.
s tract contains 119 acres, and is known as "The Resurvey of Hard to

Upon the Virginia shore, opposite Conn's Island, the United States holds a deed to 10 acres from Mrs. Ann R. Green.

The committee is of opinion that the title to an undivided half of the first and to all of the two last named tracts is in the United States.

The Great Falls Manufacturing Company claims title to Conn's Island, in the Potomac, above the Great Falls. If the dam is extended to the Virginia shore, the line of construction will be across the lower end of Conn's Island. The Great Falls Manufacturing Company also claims to own the Cyclades, a group of small islands which, in seasons of low water, appear at the head of Conn's Island. It also claims the ownership of the Toulson tract, on the Virginia shore, extending from a point opposite the middle of Conn's Island to a point below the foot of the falls, and below the mouth of the old canal of the Potomac. Navigation Company. By virtue of its alleged ownership of Conn's Island, the company claims, as riparian right, the bed of the river on each side of the island to the middle of each channel, and for the eastern boundary of the Toulson tract it claims the middle line of the Virginia channel.

On the 27th day of July, 1858, the United States instituted proceedings in Montgomery County, Maryland, for the condemnation of the lands necessary for the dam from the Maryland to the Virginia shore. A jury being summoned by the sheriff, went upon the ground, took testimony, and finally made an award, which was regarded as excessive; and for that, and the additional reason that the jury allowed damages for land lying beyond the jurisdiction of the court, in Virginia, at the instance of the United States it was set aside and a new jury ordered to be summoned. Butf rom that time to the present no further step has been taken in this proceeding.

On the 20th November, 1862, the Secretary of the Interior and the Great Falls Manufacturing Company entered into an agreement to submit the matters in controversy between the United States and the company as to the amount of compensation or damages, if any, that should be paid to the company for occupation and use by the government of any land or water rights and privileges claimed by said company at the Great Falls, to the arbitrament of five persons named, and that the arbitrators in considering the question shall regard the title of the company to the lands claimed by it as valid, but no award shall be binding upon the United States until the Attorney-General of the United States shall decide that the company has valid title to said lands, and that either party, being dissatisfied with such award as may be made, may, within thirty days after award, proceed by bill in equity, filed in the circuit court of the District of Columbia, to set aside said award and obtain such decree as justice demands in the premises, and from such decree either party may appeal to the Supreme Court of the United States.

On the 28th day of February, 1863, the arbitrators submitted their alternative award, giving to the United States the election between the following propositions:

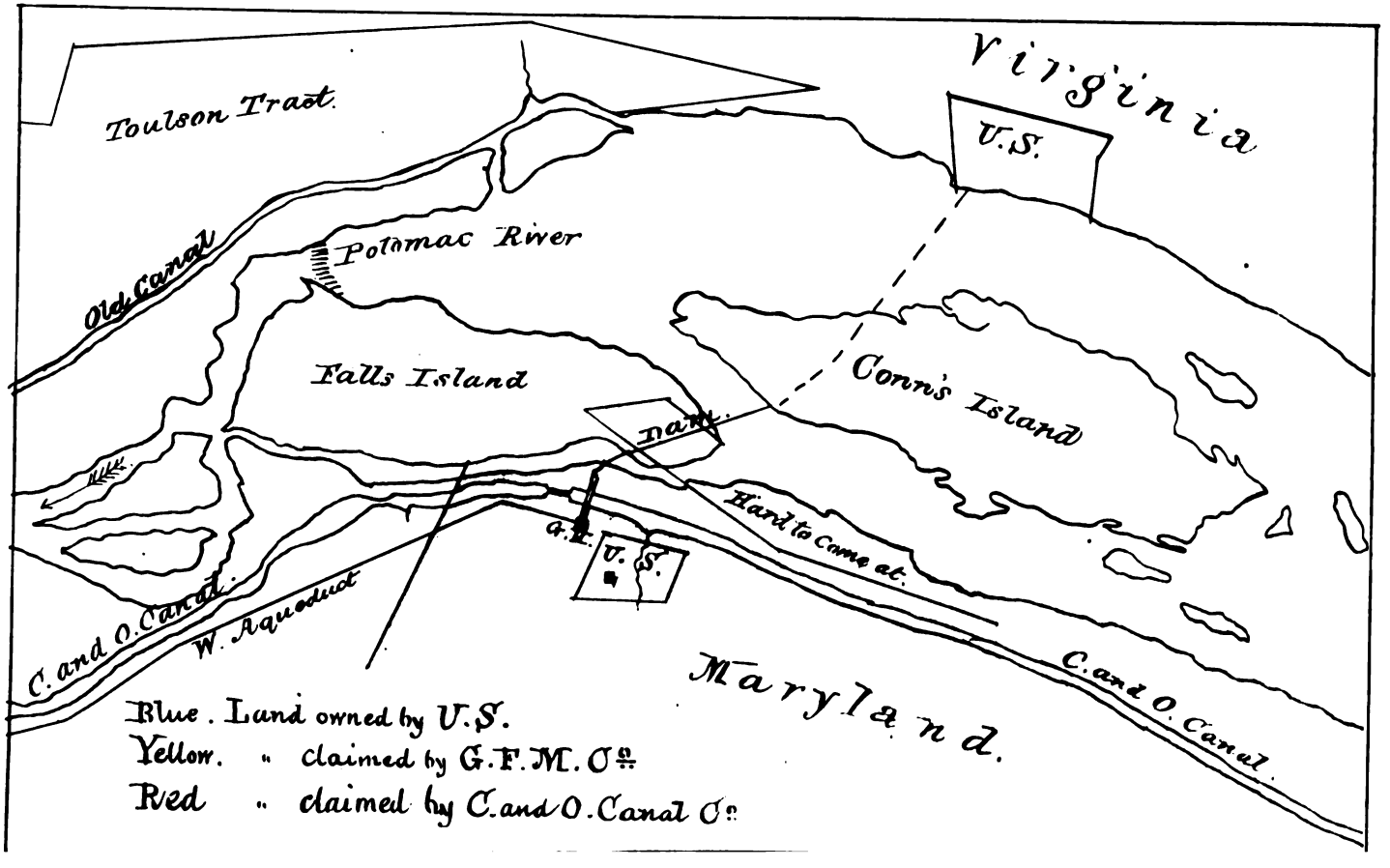
First. To build a dam of a given character from the Maryland to the Virginia shore, and pay to the company $50,000.

Second. To build a dam of a different character, and pay to the company $63,766.

Third. To build a dam of a different character from the other two, and pay to the company $77,200.

Fourth. To build a dam in character different from the other three above named, and pay to the company $15,692.

But since the award was submitted nothing further appears to have been done in the matter; no bill has been filed in the circuit court by


Virginia
Toulson Tract
V.S.
Old Canal
Potomac River
Falls Island
Conn's Island
Dam
Hard to Come at.
G.F.
V. S.
C. and O. Canal
W. Aqueduct
C. and O. Canal
Maryland.
Blue. Land owned by U.S.
Yellow. " claimed by G.F.M. Co.
Red " claimed by C. and O. Canal Co.

er party, nor have the title papers of the company been submitted to Attorney-General to enable him to decide as to the title of the com- r to the lands in question.

1868 the company commenced suit in the Court of Claims to recover the United States $250,000 damages, which it claims to have sus- d by reason of the construction of the dam across the Maryland nel at the Great Falls, which suit is still pending, but will probably etermined at the present term of the court.

e committee finds that the eastern abutment of the dam at Great , the mouth of the aqueduct, the gate-house at the head of the con- and the conduit itself for the first 1,000 feet of its length, are all ed upon land claimed by the Chesapeake and Ohio Canal Company. anal company, though steadily refusing to part with its title to the thus occupied, granted permission to the United States to occupy it certain specified conditions. These conditions the company claims overnment has failed to perform, and as long ago as January, 1873, s claimed that the extraordinary expenses of the canal company in rs, &c., made necessary by the failure of the United States to com- vith its contract, amounted to $280,577.42.

e committee submits herewith a rough map showing the relative ion of the tracts referred to.

e committee recommends the adoption of a joint resolution direct- he Attorney-General to proceed to the condemnation of the lands which the Great Falls dam is located, and such other lands as the neer in charge of the aqueduct may decide to be necessary for the nsion of the dam.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 40.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 9, 1879.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 53.]

The Committee on Military Affairs, to which was referred Senate bill 53, making appropriation for the erection of suitable posts for the protection of the Rio Grande frontier, respectfully submits the following report:

A bill (S. 414) having in view the same object was reported favorably from this committee on the 11th day of December, 1877, and passed the Senate, without division on the 31st of January, 1878, and was sent to the House the same day, but no final action was taken by that body during the Forty-fifth Congress.

The great national importance of adequate protection to the Rio Grande border, fronting Mexico, by sufficient military force and additional posts, was brought to the attention of Congress by the President in his annual message of December 3, 1877. The committee makes the following extract from said message:

> The revolution which recently occurred in Mexico was followed by the accession of the successful party to power and the installation of its chief, General Porfirio Diaz, in the Presidential office. It has been the custom of the United States, when such changes of government have heretofore occurred in Mexico, to recognize and enter into official relations with the *de facto* government as soon as it should appear to have the approval of the Mexican people, and should manifest a disposition to adhere to the obligations of treaties and international friendship. In the present case such official recognition has been deferred by the occurrences on the Rio Grande border, the records of which have been already communicated to each house of Congress, in answer to their respective resolutions of inquiry. Assurances have been received that the authorities at the seat of the Mexican Government have both the disposition and the power to prevent and punish such unlawful invasions and depredations. It is earnestly to be hoped that events may prove these assurances to be well founded. The best interests of both countries require the maintenance of peace upon the border, and the development of commerce between the two republics. * * * * * * * * * * * *
>
> While I do not anticipate an interruption of friendly relations with Mexico, yet I cannot but look with some solicitude upon a continuance of border disorders as exposing the two countries to initiations of popular feeling and mischances of action which are naturally unfavorable to complete amity. Firmly determined that nothing shall be wanting on my part to promote a good understanding between the two nations, I yet must ask the attention of Congress to the actual occurrences on the border, that the lives and property of our citizens may be adequately protected and peace preserved.
>
> * * * * * * * * * * * *
>
> Disturbances along the Rio Grande, in Texas, to which I have already referred have rendered necessary the constant employment of a military force in that vicinity. A full report of all recent military operations in that quarter has been transmitted to

the House of Representatives in answer to a resolution of that body, and it will, therefore, not be necessary to enter into details. I regret to say that these lawless incursions into our territory by armed bands from the Mexican side of the line, for the purpose of robbery, have been of frequent occurrence, and in spite of the most vigilant efforts of the commander of our forces the marauders have generally succeeded in escaping into Mexico with their plunder. In May last, I gave orders for the exercise of the utmost vigilance on the part of our troops for the suppression of these raids and the punishment of the guilty parties, as well as the recapture of property stolen by them. General Ord, commanding in Texas, was directed to invite the co-operation of the Mexican authorities in efforts to this end, and to assure them that I was anxious to avoid giving the least offense to Mexico. At the same time he was directed to give notice of my determination to put an end to the invasion of our territory by lawless bands, intent upon the plunder of our peaceful citizens, even if the effectual punishment of the outlaws should make the crossing of the border by our troops in their pursuit necessary. It is believed that this policy has had the effect to check somewhat these depredations, and that with a considerable increase of our force upon that frontier, and the establishment of several additional military posts along the Rio Grande, so as more effectually to guard that extensive border, peace may be preserved and the lives and property of our citizens in Texas fully protected.

The Secretary of War under date December 1, 1877, in a letter addressed to the chairman of this committee, says:

In my opinion the preservation of peace and order along the boundary between this country and Mexico is a matter of sufficient importance to justify a considerable expenditure of money. Not only is it important to protect the people of the great and rapidly growing State of Texas from depredation, but it is also vastly important that every cause of difficulty between this country and Mexico should be removed, to the end that friendly relations may continue.

It is not necessary that "defensive works," in the technical sense of these terms, should be erected along the Rio Grande, but the proposition to add a number of additional small military posts along that frontier is, as it seems to me, worthy of very favorable consideration by Congress. Raids into Texas from the Mexican side of the line are generally made by small parties for purposes of plunder only.

If our posts were increased so as to be within forty or fifty miles of each other, on the line from Fort Brown to Fort Duncan, a small garrison of infantry at each post, with small bodies of cavalry to patrol the intervening distances, might, I think, protect the people of Texas from these raids.

This would require three or four additional posts on that line.

General Sherman, commanding the Army, under date March 31, 1879, says:

I certainly will favor any proposition to build suitable posts along the Rio Grande frontier, because it forms a national boundary and is likely to be permanent. * * * It may be well to build a new post between Ringgold Barracks and McIntosh, and another between McIntosh and Duncan. Should more be needed, I should prefer small block-houses connected with the larger posts by the telegraph, which would give prompt notice of the coming of any raiding party. It surely is to the national interest that the property on that frontier be made so safe that men would be encouraged to settle up all the lands, and thus form communities strong enough to guard their own interests. You may always count on me to favor any plan which will accomplish this result. Now is a good time, because matters on that frontier are exceptionally quiet and satisfactory.

General E. O. C. Ord, commanding Department of Texas, under date March 15, 1879, says:

As to the needs of my department, I stated to the Military and Appropriation Committees of the House of Representatives that since I had reduced the number of posts in this department I had been re-enforced with twenty companies, and had sent out three, and that having quartered one of the seventeen additional I had now sixteen companies without quarters; that at lowest estimates it would take an average of $13,000 to quarter each of these companies; that I wanted to build three new posts; could get along with, perhaps, two; this to cover advancing line of frontier settlements; that in past four years I had received scarcely any money to quarter my troops.

* * * * * * *

You can say that in the last four years the frontier of the State within which it is safe for families to settle has advanced from one hundred and fifty to two hundred miles toward the Staked Plains and the Rio Grande, and a new line of posts along certain parts of this new frontier, and to protect it from reservation Indians on the north and from Apaches from Mexico, on the south, is necessary.

'he statement is made clearly by General Ord, in the above extract, t he has sixteen companies without quarters.

ırely common prudence demands that these troops should not be s exposed unnecessarily to the inclemencies of the weather.

ieneral Sherman, in another portion of the same letter from which extract herein is taken, and which is addressed to Mr. Maxey, of the ımittee, says:

assure you that I have no intention to reduce the military strength a particle in as; on the contrary, the changes contemplated there will rather increase the force, utting *full* regiments in place of such as have been there ten years and are re-d in strength.

t is manifest to every intelligent man, whether he has military edu-ion and experience or not, that wisdom and sound policy demand t peace should be preserved along the Rio Grande border; that the ple along that frontier should be protected from incursions of Mexican ıditti and savage Indians, which have so long cursed the border and w years ago well-nigh depopulated it.

'he wise policy of affording all the protection in the power of the ernment, with its limited military force, which has been pursued for w years past, had manifested itself in greater peace and quiet there ı had been enjoyed for many years before, and a conclusive evidence ts wisdom is the fact stated by General Ord, that within the last r years the frontier within which it is safe for families to settle has anced from one hundred and fifty to two hundred miles towards the ked Plains and the Rio Grande.

ieneral Sherman, appreciating the wisdom of this policy, gives the inct asssurance that he will not diminish but rather increase the e. General Ord states that he has sixteen companies without quar-, and that at lowest estimates it will take an average of $13,000 to rter each of these companies. A simple calculation shows that the ı of $208,000 at the lowest estimate is necessary to quarter these ıpanies.

'he statement of facts given is the strongest argument.

'or many years past, as shown by the reports of the State Depart-ıt, by the messages of the President, by investigations under the hority of the House of Representatives, and by the report forwarded the State Department to the Senate during the third session of the ty-fourth Congress, in compliance with its resolution, it is abundantly l conclusively established that murder, robbery, and arson have been ried on along that border with a high hand by Mexican and Indian lers.

t is hoped and believed there is a change for the better. The com-tee has reason to believe that the Mexican authorities are mani-ing a greater disposition than they have heretofore exhibited to do at they can on their side of the line to prevent these lawless incur-ıs into our territory, and that they are not only willing but anx-s that the authorities of this government shall keep such protecting itary force on our frontier as will, with their aid, prevent raiding on territory in the future.

ıdequate protection of the frontier is the best security for peace.

t will encourage settlements, so that in a few years the strength of settlements will itself go far toward effectually and permanently ›ping these raids.

esides, raids, and of consequence bad blood and collisions, once effect-y checked, commerce along the border between the two countries spring up, and commerce itself is a handmaid of peace.

In addition to the foregoing recommendations, I make the followi extract from a letter from the honorable Secretary of War to H. B. Ba ning, chairman of the House Committee on Military Affairs:

WAR DEPARTMENT,
Washington City, February 19, 1879

SIR: In reply to your favor of yesterday, I have the honor to inclose a report of t General of the Army upon the subject of the establishment of additional military po in the vicinity of the Rio Grande border.

I am of opinion that at least four additional military posts along the line of the R Grande should be constructed, and recommend the appropriation of $200,000 for th purpose.

General Ord estimates that at least that sum will be required, and I concur wi him in that opinion.

* * * * * * *

Very respectfully, your obedient servant,

GEO. W. McCRARY,
Secretary of War.

Hon. H. B. BANNING,
Chairman Committee Military Affairs, House of Representatives.

Thus, in the judgment of the committee, the bill proposed is, from t standpoint of protection, peace, and commerce, a wise and econom measure.

Attention is also invited to the urgent renewal of his recommendati for this appropriation made by General Ord in his annual report to t General of the Army, October 1, 1879, page 93 of the report of the Ge eral of the Army to the Secretary of War.

Wherefore the committee reports back Senate bill 53, with such amen ments as may be deemed prudent for the better protection of the go ernment, which amendments are shown by the bill as reported; and amended recommend that the bill do pass.

TH CONGRESS, 2d Session. } SENATE. { REPORT. No. 41.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 9, 1879.—Ordered to be printed.

MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 54.]

Committee on Military Affairs, to which was referred Senate bill 54, respectfully report as follows:

communication from the Secretary of War, dated January 27, 1879, mmending the purchase of the property described in this bill, for nal purposes, was considered by this committee, upon its reference he Senate, at the last session (third session Forty-fifth Congress), Senate bill 1720 of that session, similar in all its provisions, was re-ed, by direction of the committee, by Mr. Plumb, whose report is ›ted by the committee as still expressing their views, and is as fol-:

conclusively appears from the evidence submitted that the San Antonio Arsenal een, is, and will continue to be for many years, one of the most important re-ng, distributing, and repairing depots for the Army on the frontier. The improve-s on the arsenal grounds are not of a very substantial character, many of the ings being wooden sheds, and nearly all in close proximity to the south line of ame. Adjoining the arsenal grounds on the south, and between the grounds and ıal street, is a strip of land the whole length of the grounds, containing nearly acres. This strip of ground is desirable as an addition to the present arsenal tract everal reasons, but especially to remove the exposure now existing by reason of ›cation of the buildings, as before mentioned, and prevent that which will inevit-result in case the adjoining strip of land should be built upon, as is now immi-

A large amount of stores are thus exposed to danger, and which cannot be died except by the removal of the present storehouses to another location on the nt grounds, or the purchase of the strip of land mentioned.

e Secretary of War and the Chief of Ordnance strongly recommend the pur-of the present strip of land mentioned adjoining the present arsenal grounds on ›uth, which is offered to the government for fourteen thousand dollars.

e committee are decidedly of the opinion that this purchase is the cheapest way medy the dangerous exposure of government stores, and is desirable, as well, as ıg largely to the value of the existing arsenal grounds for the purpose for which are now and must be long maintained. To effect this object the committee re-a bill to authorize the Secretary of War to make the purchase of the strip of land ioned.

ention is called to the letters of the Secretary of War, the Chief of Ordnance, and apanying map, which enforce the conclusions of this report.

addition to the statements of the Secretary of War and Chief of ıance, the committee at its last session took the testimony of Captain ly, ordnance officer at San Antonio Arsenal, which is as follows:

Clifton Comly, captain of ordnance, U. S. A., at present on duty as command-ıe United States Arsenal at San Antonio, Tex., says:

n acquainted with the Beauregard property lying south of and contiguous to ›enal grounds at San Antonio. The map now in possession of the committee is

correct, and shows plainly the relative positions of the two properties; it is a of a map officially furnished by me to the Chief of Ordnance.

I regard the acquirement of Mr. Beauregard's property by the United State desirable, indeed as essential to the proper care and protection of the gov property held as the San Antonio Arsenal. By reference to the map it will that Mr. Beauregard's land consists of a long, narrow strip, fronting 125 Lower Flores street and running back some 1,330 feet to the San Antonio Ri case it is not purchased by the government, the owner will naturally divid lots facing south, that is, on Arsenal street; this would place all outbuilding &c., directly on the south line of the arsenal grounds and in close proximity storehouses, where there is constantly stored many thousands of dollars' wort nance stores. In addition, reference to the map will show that outside buildi tioned would some of them be within a very short distance of the magazine of necessity, powder and various kinds of ammunition are constantly store additional space given by the purchase of this property would be useful in ma

In regard to the price asked by Mr. Beauregard, I would state that should be estimated by the number of lots (building lots) it contains rathe its superficial area in acres. It gives the owner some 26 lots of fair size, and age price of $500 for each I do not regard as excessive, in view of the fact of about the same size in the vicinity of the arsenal have sold for higher pri

A diagram of the map referred to in Captain Comly's testimony with presented, and will clearly exhibit the importance of this to the government.

The special estimate for this purchase of the Chief of Ordnan follows:

ORDNANCE OFFICE, WAR DEPARTMEN
Washington, January 27

SPECIAL ESTIMATE.

For the purchase and improvement of a strip of land adjoining the arsenal at San Antonio, Tex., and lying between said arsenal grounds and Arsen fronting about 125 feet on Flores street and about 1,350 feet on Arsenal street,

S. V. BENE
Brigadier-General, Chief of Or

The committee report back Senate bill 54 without amendme recommend its passage.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 42.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 9, 1879.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 744.]

The Committee on Military Affairs, to whom was referred the bill (S. 744) to amend the one hundred and third Article of War, respectfully submit the following report:

The one hundred and third Article of War reads as follows:

ART. 103. No person shall be liable to be tried and punished by a general court-martial for any offense which appears to have been committed more than two years before the issuing of the order for such trial, unless by reason of having absented himself, or some other manifest impediment, he shall not have been amenable to justice within that period. (Rev. Stat., page 239.)

Does the limitation in article 103 apply to cases of desertion? What is the correct construction of the expression "unless by reason of having absented himself"?

Judge-Advocate-General Holt, "in construing this article, held, in repeated cases, that there was nothing in the article to except desertion from the operation of the limitation, but that the same was included, equally with all other military crimes, within the provision. He held that the word 'absence' was employed in the same sense as in some of the State statutes of limitation, and meant here, absence from the jurisdiction of the United States, and he was of opinion that, unless the order for the court was issued within two years after the date of the desertion, the prosecution of the same was barred by the article.' (See Annual Report of Judge-Advocate-General Dunn for 1877, October 10, 1877, page 3.)

The case of C. K. Thompson was submitted by the Secretary of War June 13, 1871, for the opinion of the Attorney-General, and on the 23d of June, 1871, Hon. B. H. Bristow, Solicitor-General and Acting Attorney-General, gave his opinion, which may be found in vol. xiii, Opinions of Attorneys-General, page 462. The substance of that opinion and the facts on which it is based may be briefed as follows:

Thompson was enlisted August 21, 1865, for three years; deserted October 2, 1865; was apprehended April 13, 1871, and was confined in Newport Barracks to await trial by general court-martial: *Advised*, that the court-martial has no jurisdiction to try the case, because of the bar presented by the eighty-eighth Article of War. An examination of the eighty-eighth Article of War (2 Statutes at Large, page 369; also in Revised Army Regulations 1861, page 513), will show that article 4, upon which the above opinion is based, is in substance and essence the

same as article 103 of the present Articles of War. And the Attorney-General refers for support to 1 Opinions, p. 383, and 6 Opinions, p. 240.

The case of Samuel J. Harris, who enlisted in the Ninth Infantry on the 16th day of August, 1870, and deserted on the 19th day of September, 1870, and who enlisted under an *alias* about one year thereafter in the Sixth Infantry, and about 26th October, 1872, confessed to an officer of that regiment that he was a deserter from the Ninth Infantry, is in point. March 11, 1873, an order was issued for convening a general court-martial for his trial, and on the 24th April following the trial was proceeded with, and he was found guilty. The opinion of the Attorney-General was called for by the Secretary of War, and may be found in volume xiv, Opinions, page 265. In that opinion the Attorney-General, treating of the words, "by reason of having absented himself," says:

> * * * I am inclined to think that it would be fair to hold that the absence contemplated by the article is an absence from the reach or jurisdiction of the military authorities. To avoid the limitation of the article, it would seem to be necessary that the accused should not only be absent, but that he should be where the military authorities, by reasonable diligence, could not make him amenable to justice.

And in the same opinion he says:

> Statutes of limitation in criminal matters apply to all cases not expressly excepted from their operation.

Judge-Advocate-General Dunn concurs in the views expressed by the Attorney-General, and by his predecessor, Judge Holt, as hereinbefore quoted. And the committee is advised that in an opinion given by Attorney-General Devens September 1st last, the doctrine is held that the limitation of two years, as now contained in article 103, applies to desertion. But the committee is advised that these opinions did not and do not find full favor with all the military authorities, and in consideration of this difference of opinion, it is deemed advisable by the committee to so frame this important article as to leave its meaning beyond reasonable question.

On this subject the Secretary of War says, in his annual report on the operations of the department for the fiscal year ending June 30, 1877, on page 21:

> The Judge-Advocate-General earnestly recommends additional legislation which shall fix beyond question a specific period of limitation to prosecution in cases of desertion. The 103d Article of War, fixing the limit of time within which a person shall be liable to be tried and punished by a general court-martial, is construed by the Attorney-General, as well as the Judge-Advocate-General, to include the crime of desertion, while the contrary has been held by some military authorities. * * * As there has been much controversy over this question, it is recommended that it be finally set at rest by precise legislation.

This recommendation, in the opinion of the committee, is wise.

The bill under consideration meets, as the committee believe, the question, and leaves no reasonable ground for dispute as to its construction. The committee fix the limit of three years to prosecution for desertion, leaving the prosecution of all other offenses as now fixed in article 103. It is believed wise to harmonize the laws regulating prosecution for military offenses, as near as may be, with the laws regulating prosecution of criminal offenses before courts of ordinary criminal jurisdiction. The following sections of the Revised Statutes are in point:

> SEC. 1043. No person shall be prosecuted, tried, or punished for treason or other capital offense, willful murder excepted, unless the indictment is found within three years next after such treason or capital offense is done or committed. (Rev. Stat., p. 193.)

Section 1044 puts the limitation for offenses, not capital, at two years. Section 1045 withholds the benefit of these statutes from persons fleeing

from justice. And this extraordinary result follows, as set forth in the following extract:

> So, at military law, mutiny, disobedience of orders, and the offering of violence to an officer, which are to be deemed graver offenses than desertion, because at all times punishable with death, while desertion is so punishable in war only, as also cowardice in battle, and various other offenses incident to war, which, being capital, are at least equally grave with desertion, are also all included within the statute of limitation contained in the article under consideration.
>
> That desertion, an offense unaccompanied by violence, and obviously not the most heinous or most unpardonable that a soldier may be guilty of, should alone, of all military offenses, be excepted from the statutes, would certainly seem to be most unconscionable. (Judge-Advocate-General's Report of October 10, 1877, page 5.)

In addition to the foregoing report of the Judge-Advocate-General, the committee invite attention of the Senate to his report accompanying that of the Secretary of War at the present session on the same subject. The reasons of the Judge-Advocate-General in favor of the amendment appear to be conclusive.

The committee believe the limitation fixed in the accompanying bill reasonable, and that it removes all doubt as to the construction of article 103, and the committee report the same back to the Senate, without amendment, and recommend its passage.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 43.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 9, 1879.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 106.]

The Committee on Military Affairs, to whom was referred Executive Document No. 54, "Letter from the Secretary of War, transmitting a petition of certain officers of the Fifth Infantry U. S. A., praying to be reimbursed for losses sustained by the sinking of the government steamer Don. Cameron," have had the same under consideration, and submit the following report:

The record shows that in the year 1877, the Quartermaster's Department of the United States Army constructed two steamboats at Jeffersonville, Ind., for the purpose of navigating the Upper Missouri River and its tributaries, in the transportation of public property and materials for the erection of Forts Keogh and Custer in the Territory of Montana.

In July, 1876, shortly after the Custer massacre, the Fifth Regiment United States Infantry was ordered from Fort Leavenworth, Kansas, for active field service in the campaign against the hostile Indians under "Sitting Bull" and "Crazy Horse." During that summer and autumn and the winter campaign of 1876 and 1877, the officers of this regiment were compelled to leave their private property, except such as was necessary for an active field campaign against the Indians, at Fort Leavenworth in Kansas. When this campaign had terminated in the suppression of Indian hostilities in the Northwest, the officers of the Fifth Regiment of Infantry were stationed, in the spring of 1877, at what was known as Tongue River cantonment at the mouth of Tongue River, Montana, where their services were deemed necessary by the commanding general of the Army.

The following is the law regulating the allowance of baggage to officers in changing stations:

Officers' baggage.

Paragraph 1097, Revised Army Regulations, is modified as follows:

The baggage to be transported is limited to camp and garrison equipage and officers' baggage. Officers' baggage shall not exceed (mess-chest and all personal baggage included) as follows:

	In the field.	Changing stations.
Major-general	1,000 pounds.	2,500 pounds.
Brigadier-general	700 "	2,000 "
Field-officers	500 "	1,800 "
Captains	200 "	1,500 "
Subalterns	150 "	1,000 "

These amounts shall be reduced *pro rata* by the commanding officer when necessary, *and may be increased by the Quartermaster-General on transports by water* when proper, in special cases.

By order of the Secretary of War.

E. D. TOWNSEND,
Adjutant-General.

Official.

——— ———, *Assistant Adjutant-General.*

NOTE.—Made a part of the law by act of July 28, 1866. (The United States *vs.* Williamson, 23d Wall., 411;) and see, specially, the 37th section of same act, vol. 14, U. S. Stat. at Large, pp. 337, 338.

From this it will be seen that the specified amount may be increased by the Quartermaster-General. On the 3d of March, 1877, the Quartermaster-General, by the following letter, increased the allowance of baggage for the Fifth Infantry, as authorized as above quoted by Army regulations:

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, March 3, 1877.

COLONEL: Referring to letter from this office to you of the 13th ultimo, in relation to the building of boats for service on the Yellowstone and Bighorn Rivers, you are respectfully informed that the Secretary of War directs that the transportation of the company baggage, laundresses, enlisted men, officers' families, and property of the Fifth Infantry, now at Fort Leavenworth, be done by the boats (now building at Jeffersonville) to go up the Missouri River.

The regimental quartermaster of the Fifth Infantry reports that transportation will be required for officers' families, some twenty persons in number, twenty soldiers, and that children of soldiers will swell the list to about two hundred persons, while the property to be shipped is estimated at one hundred and fifty tons. Please give orders to the boats accordingly.

Very respectfully, your obedient servant,

M. C. MEIGS,
Quartermaster-General.

Lieut. Col. JAMES A. EKIN,
Deputy Quartermaster-General, U. S. A.,
Jeffersonville, Ind.

Official.

G. W. BAIRD,
First Lieutenant and Adjutant, Fifth Infantry.

This letter shows that the Secretary of War, through the Quartermaster-General, had directed the transportation of the companies' baggage, laundresses, enlisted men, and officers' families and property of the Fifth Infantry then at Fort Leavenworth, to be performed by the boats then building at Jeffersonville, Ind. It further appears, both from the official reports and the affidavits of Lieut. F. H. Hathaway, Jno. A. Ross, quartermaster-sergeant, Fifth Infantry, and Private Leonard B. Whitbeck, Company K, Fifth Infantry, hereinafter quoted, and the affidavit of G. W. Baird, first lieutenant and adjutant Fifth United States Infantry, also exhibited, that Hathaway was the regimental quartermaster of the Fifth Infantry; that on the 10th of May, 1877, he embarked at Fort Leavenworth on the United States steamer J. Donald Cameron, bound for the military post at Tongue River, Montana, where his regiment was stationed, said post being reached by steaming up the Missouri River, thence up the Yellowstone to the mouth of Tongue River; that said boat was laden with some public property, and the private effects, household goods, and baggage of a number of the officers of the Fifth Infantry, who, as will be seen by the letter of General Miles, were going to a remote section, where supplies, necessaries, and comforts for their families and themselves could not be obtained, and hence they were compelled to lay in more than the usual

quantity transported by officers on change of ordinary station; that on the 18th of May, 1877, about noon, while the said steamer was running at the usual rate of speed up stream, she struck a snag, about two feet in diameter, with such force as to puncture the boat and break off the snag, some twenty or more feet long, at the bottom of the river; that the water poured through the hole made by the snag in such quantities as to sink the steamer in eighteen feet water, and in about twenty minutes after striking the snag, and that all the property of the officers of this regiment then on the boat was submerged and lost. General Terry, commanding the Department of Dakota, under date of May 24, 1877, ordered a board of officers to be convened, consisting of Maj. George W. Candee, Pay Department; Maj. William B. Hughes, Quartermaster-General's Department; and Capt. William A. Elderkin, Subsistence Department, to assemble at Sioux City, Iowa, on the 26th day of May, and to proceed thence to the wreck of the steamer J. Donald Cameron to examine into the circumstances of the sinking of that vessel, to ascertain and report the extent of the damage, and determine whether any person or persons were responsible for such damages. This board, after examining into all of these matters and taking a large amount of testimony, and making a full and complete investigation, submitted and reported that the following points were fully established by the evidence, namely:

1st. That the steamer J. Donald Cameron was not properly constructed for the safe navigation of the Upper Missouri River, in that she was not provided with proper bulkheads or water-tight compartments, and that the sinking of said steamer at the time and under the circumstances would not have occurred but for these defects in her construction.

2d. That John S. Ritchie, employed by Lieut. Col. J. A. Ekin, deputy quartermaster-general, U. S. A., as master and pilot of said steamer J. Donald Cameron, was not a regularly licensed pilot upon the Missouri River, and had never been up said river above Omaha, Nebr.; that J. C. Woodruff, employed by Lieut. Col. J. A. Ekin, deputy quartermaster-general, U. S. A., as pilot of said United States steamer J. Donald Cameron, was not a regularly licensed pilot upon the Missouri River, and had never been upon said river. The committee refer to the report of said board on file in the papers of this case.

Your committee here quote sections 4438, 4442, 4446, and 4463 of the Revised Statutes of the United States relating to navigation:

SEC. 4438. The board of local inspectors shall license and classify the masters, chief mates, engineers, and pilots of all steam-vessels. It shall be unlawful to employ any person, or for any person to serve as a master, chief mate, engineer, or pilot on any steamer who is not licensed by the inspectors; and any one violating this section shall be liable to a penalty of $100 for each offense.

SEC. 4442. Whenever any person claiming to be a skillful pilot of steam-vessels offers himself for a license, the inspectors shall make diligent inquiry as to his character and merits, and if satisfied from personal examination of the applicant, with the proof that he offers, that he possesses the requisite knowledge and skill, and is trustworthy and faithful, they shall grant him a license, for the term of one year, to pilot any such vessel within the limits prescribed in the license; but such license shall be suspended or revoked upon satisfactory evidence of negligence, unskillfulness, inattention to the duties of his station, or intemperance, or the willful violation of any provision of this title.

SEC. 4446. Every master, mate, engineer, and pilot who shall receive a license shall, when employed upon any vessel, place his certificate of license, which shall be framed under glass, in some conspicuous place in such vessel, where it can be seen by passengers and others at all times; and for every neglect to comply with this provision by any such master, mate, engineer, or pilot, he shall be subject to a fine of $100, or to the revocation of his license.

SEC. 4463. No steamer carrying passengers shall depart from any port unless she

shall have in her service a full complement of licensed officers and full crew, sufficient at all times to manage the vessel, including the proper number of watchmen. But if any vessel, on her voyage, is deprived of the services of any licensed officer without the consent, fault, or collusion of the master, owner, or any person interested in the vessel, the deficiency may be temporarily supplied until others licensed can be obtained.

From the facts ascertained and reported by the board of survey, sustained by the affidavits of Lieutenant Hathaway and others, hereto appended, and the letter of General Miles, also exhibited, your committee are of opinion—

1st. That the order increasing the amount of baggage to officers was, in this change of stations, properly issued.

2d. That no other transportation than by the steamer designated for the baggage was furnished by the government.

3d. That the pilot in charge of the Don. Cameron was not a *licensed pilot* for navigating the Missouri River; that the captain of the boat, the chief mate, and the other officers were wholly unacquainted with said part of said river.

4th. That the boat was unseaworthy.

5th. That the navigation of the Missouri River between Omaha, Nebr., and Sioux City, Iowa, is dangerous, so much so that it has been styled "the graveyard of steamboats."

6th. That some of the officers whose property was lost had insured the same, but payment of these policies has been successfully resisted on the ground, as the committee is advised, of *gross neglect* on the part of the government officials in officering the boat with men wholly ignorant of those waters and not licensed to navigate the same, and on the further ground that the boat was *unseaworthy.*

Your committee therefore conclude that the government was guilty of gross neglect in the construction of this boat for the navigation of the Missouri and Yellowstone Rivers, known to be dangerous waters, without the construction of water-tight bulkheads or compartments in the hold, or steam capstans about the deck, both of which are regarded as necessary and usual in the construction of steamboats for the navigation of those waters.

The government was further guilty of gross neglect in sending this boat up the Missouri River officered and manned by men unacquainted with those waters and in charge of a pilot who was not regularly licensed for the navigation of that river.

The navigation laws of the United States are enacted with a view to protect life and property on the high seas and on our navigable waters, and to establish such rules and regulations as have been demonstrated by experience to be conducive to the public good. The government is as much bound by these laws as the citizen, and may not avoid them without incurring responsibility. In this case it appears, to the satisfaction of your committee, that the officers representing the government, and having this transportation in charge, not only disregarded the navigation laws, but neglected the usual and necessary prudence in the construction of the boat, which the most ordinary observation would have shown was utterly unfit and unworthy the dangerous service of navigating the Upper Missouri River. The officers and men of the Fifth Infantry and their families had no option but to embark upon this boat at the imminent risk of life and property, and, therefore, in no way contributed to the carelessness and gross negligence through which their property was lost. While it is true the government cannot, in law, be held to be an insurer, yet the government cannot, more than the citizen, escape or avoid the penalties and liabilities which the law imposes upon

gross negligence; and it is submitted that the law of insurance has nothing to do with the case.

There are several precedents established by Congress where compensation has been made for losses incurred under somewhat like circumstances. Your committee deem it proper to cite the following acts bearing upon the case herein considered:

AN ACT for the relief of the United States troops who were sufferers by the recent disaster to the steamship San Francisco.

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That there shall be paid, under the direction of the President, to each of the officers, non-commissioned officers, musicians, and privates, who, on the twenty-first day of December, eighteen hundred and fifty-three, embarked at New York, under orders for California, on the steamship San Francisco, and who was on board that vessel on the occasion of her recent disaster at sea, and to Lieutenant Francis Key Murray, and other officer or seaman of the United States Navy who was on board the said steamship, under orders, a sum equal in amount to his pay and allowances for eight months.

SEC. 2. *And be it further enacted,* That if any such officer, non-commissioned officer, musician, or private, shall have died before receiving such payment from any cause consequent upon said disaster, his widow, if one survive him, and if not, then his minor children, if any there be, shall be paid a sum equal in amount to six months' pay and allowances of the deceased. And that the widows and minor children of those officers, non-commissioned officers, and privates who perished by this disaster, or who died from disease in consequence thereof, shall be allowed pensions in the same manner in all respects as if the said officers, non-commissioned officers, and privates had been killed in battle (10 Stat., 269).

Approved March 27, 1854.

AN ACT for the relief of certain officers of the Third United States Artillery, who suffered by fire at Fort Hamilton, New York Harbor, on the third of March, eighteen hundred and seventy-five.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of Treasury of the United States be, and are hereby, authorized to settle with the first lieutenants of the Third United States Artillery who lost their personal effects by fire at Fort Hamilton, New York Harbor, on the third of March, eighteen hundred and seventy-five, at a sum not to exceed six hundred dollars each, and a sufficient sum is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Approved, January 30, 1877.

AN ACT relative to the burial of the officers and others of the United States Navy who perished by the wreck of the United States steamer Huron, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he is hereby, authorized, at such time as in his discretion may be proper, to have removed to the Naval Cemetery at Annapolis, Maryland, and have buried there, the remains of the officers and others who perished by the wreck of the United States steamer Huron on the twenty-third of November, eighteen hundred and seventy-seven, and which have been, or may hereafter be, buried on the coast of North Carolina: *Provided,* That the relatives of any such deceased officers and others who prefer that the remains of such be taken to their homes within the United States, shall have such privilege extended to them and the expenses thereof shall be borne by the United States: *And provided further,* That the expense of removal, incurred by the relatives of those whose bodies have already been removed, shall be reimbursed to them, and the sum of six thousand dollars, or so much thereof as may be found necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated, to carry out the provisions of this act. And the benefit of the provisions of this act as far as applicable is hereby extended to those of the wrecking steamer B. and J. Baker who were lost in the attempt to rescue the crew of the steamer Huron.

Approved, December 15, 1877.

It is submitted that if these salutary acts for the benefit of persons who had suffered by disaster, and the heirs, &c., of such, were well

grounded, surely those who suffered by such gross negligence as e
isted in this case have a valid claim to relief.

TERRITORY OF MONTANA,
Custer County, ss:

Personally appeared before me, G. M. Miles, U. S. commissioner for the district Montana, Lieutenant F. H. Hathaway, Fifth U. S. Infantry, who, being sworn acco ing to law, deposes and says that, on the 10th day of May, 1877, he embarked at Fo Leavenworth, Kansas, on the U. S. steamer J. Donald Cameron, a government riv transport, with a detachment of soldiers belonging to the Fifth Infantry, together wi the familes of some of the officers of the said regiment, and servants and other pe sons, bound for the military post at Tongue River, M. T., to be reached by steami up the Missouri and Yellowstone Rivers. The said boat was laden additionally wi some public property, and the private effects, household goods, and baggage of a n jority of the officers of the said regiment.

That upon examining the said vessel deponent discovered that there was no wat tight bulkheads or compartments in the hold or steam capstans about the deck, bo of which essential features deponent believes are necessary and usual in steambo navigating the rivers mentioned; that the said steamer J. Donald Cameron w built, owned, and run by the government, *and that no officer on the said steamer h ever navigated the Missouri River north of Omaha, Nebraska*, to his knowledge and b lief; that on the 18th day of May, 1877, about noon, while the said steamer was ru ning at usual rate of speed upstream, she struck a snag, about two feet in diamete with such force as to penetrate the bow and to raise deck over the forecastle, and break off the snag, some twenty-five or thirty feet long, at the bed of the river; th the water poured through the hole made by the snag with such force as to sink th said steamer in ten and eighteen feet of water in about twenty minutes' time; th with the snag stuck fast in the bow it was impossible to head in to the shore, and became necessary to back in as close as possible; that the boat did not reach a poi nearer than thirty or forty feet from the shore, and there sunk in deep water, with a the property of the following-named officers on board, viz: Col. N. A. Miles; Maj Geo. Gibson; Capts. D. H. Brotherton, Simon Snyder, Jas. S. Casey, Samuel Ovenshin E. P. Ewers, and Andrew S. Bennett; Lieutenants Mason Carber, Frank D. Baldwi E. L. Randall, Henry Romeyn, Geo. W. Baird, T. F. Forbes, F. H. Hathaway, D. Rousseau, H. K. Bailey, W. H. C. Bowen, O. F. Long, and C. P. Thompson, all of th Fifth U. S. Infantry; that all the property of the said officers, excepting a few person effects in trunks and packages on the cabin deck, were submerged and lost or damage by the said wreck. Deponent further states that in his opinion, if the said steambo had been fixed with water-tight compartments, the boat and property lost and damage might have been saved; and that the place of said wreck was on the west bank o Missouri River, at the Winnebago Indian Reservation, Neb., about forty miles belo Sioux City, Iowa.

F. H. HATHAWAY,
1st Lt. 5th U. S. Inf'y.

Sworn to and subscribed before me this 14th day of December, 1878.

G. M. MILES,
U. S. Court Commissioner.

Personally appeared before me John A. Ross, quartermaster sergeant Fifth Infantry and Private Leonard B. Whitbeck, Co. K, Fifth Infantry, who, having heard th foregoing affidavit read, depose that they were on the said steamboat Cameron at th time of her wreck, and that the statements and facts as set forth are true, to the bes of their knowledge and belief.

JOHN A. ROSS.
LEONARD WHITBECK.

Sworn to and subscribed before me this 14th day of December, 1878.
[SEAL.]

G. M. MILES,
U. S. Court Commissioner.

DISTRICT OF COLUMBIA,
Washington City, County of Washington, ss:

George W. Baird, first lieutenant and adjutant Fifth Infantry, having been dul sworn, on his said oath deposes and says: In the summer of 1876 the Fifth Regimen United States Infantry, stationed at Fort Leavenworth, Kans., was ordered on a cam paign against the hostile Sioux Indians in the Territory of Montana; that the famili of the officers, together with all their household furniture and all of their person effects not necessary for a campaign in the field, was left; that the property, consisti of personal baggage, household furniture, &c., belonging to the officers of the re

ent, remained at Fort Leavenworth until on or about the 11th day of May, A. D. 1877, hen the same was shipped on board of the United States steamer J. Don. Cameron, r the station of the regiment at the mouth of Tongue River, on the Yellowstone, Tertory of Montana; that prior to said shipment deponent obtained insurance on a portion his property so shipped to the amount of five hundred ($500) dollars, and that portion insured, together with nearly all of the remainder of his property so shipped, was st by the sinking of said boat on or about the 18th day of May, A. D. 1877; that upon plication to the insurance company for payment of the policy the same was rejected, the ground that the steamer was not properly officered, in that the pilot in charge the same was not skillful or acquainted with those waters.

Deponent further says it was currently reported at the time, and generally believed the officers of the regiment, that the pilot in charge of said boat was not skillful or quainted with the navigation of the Missouri River between Omaha, Nebraska, and ux City, Iowa.

Deponent further says that, from general repute, the navigation of the Missouri River tween Omaha, Nebraska, and Sioux City, Iowa, is the most difficult and dangerous any portion of that river; that the point in that river above referred to is generally med by persons acquainted with the navigation of the river "the grave-yard of amboats."

Deponent further says that, from personal knowledge, he knows that it is the custom persons navigating those waters to employ two pilots on each steamer, one of whom least has had long experience in navigating that river.

G. W. BAIRD,
1st Lieut. & Adj't 5th U. S. Inf'y.

Sworn and subscribed before me this 15th day of January, A. D. 1879.
[SEAL.] RUTLEDGE WILLSON,
Notary Public, D. C.

WASHINGTON, D. C., *January* 23, 1879.

SIR: I have the honor to state, regarding the loss of property belonging to the officers of my regiment, that in July, 1876, immediately after the Custer massacre, my regiment was suddenly ordered from Leavenworth, Kans., to Montana; the officers could only take what was required for hard field-service; they were engaged in the campaign against Sitting Bull and Crazy Horse during that summer and autumn, and the severe campaign of the winter of 1876 and 1877. On the opening of spring their property was put upon the government steamer Don. Cameron, a steamboat in many respects utterly unfitted for service upon the most dangerous river in the United States. It was built without bulkheads; its officers were either incompetent or unacquainted with the river, which, at least, is considered unsafe, and that portion of the Missouri River below Sioux City has undoubtedly wrecked more steamboats than any body of water in the country.

The loss of property was particularly hard upon the officers and their families, as many of them lost everything they had in the world except the clothes they were wearing. The valuable service they were rendering at the time to the government was not only most severe and dangerous but very expensive, and as they had no alternative but to submit their property to the safety of a government boat, it would seem but just and right that the government should sustain the loss that they can ill afford to bear, as the loss was occasioned through no fault of theirs.

Some of the officers had insured their property, but, on the grounds of gross neglect on the part of the government officials in putting this boat upon the Missouri River, the insurance company refuses to pay any part of the insurance thereupon; they are obliged to look to the government for assistance. To show what other losses the officers have sustained and the kind of service they are engaged in, I would add that during the past two years that the regiment has been on the Yellowstone it has lost one officer killed, one officer died from exposure, two disabled by wounds received in battle, and three have, by disease contracted in the line of duty, been obliged to leave their commands and are now under medical treatment.

I have the honor to be, very respectfully, your obedient servant,

NELSON A. MILES,
Col. and Bvt. Major-Gen., U. S. Army.

Hon. S. B. MAXEY,
United States Senator.

The premises considered, your committee are clear that the petitioners are entitled to relief; and therefore report the accompanying bill, authorizing and directing the Secretary of War to examine into and ascertain the losses herein occurring, and making an appropriation of the amount reported necessary to enable him to pay the adjusted claims therefor, and recommend passage of the same.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 44.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 9, 1879.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 105.]

The Committee on Military Affairs, to whom was referred the bill (S. 105) for the relief of John Gault, jr., late major of the Twenty-eighth Kentucky Volunteer Infantry, respectfully report as follows:

The bill provides for pay and allowances to said Gault as major of infantry from August 16, 1862, to April 15, 1863, deducting therefrom any moneys paid him for any other position held during that period. Major Gault presents a commission from the commonwealth of Kentucky as major Twenty-eighth Kentucky Volunteer Infantry, to take rank as such from November 6, 1861, yet it is quite clear that this was a floating commission, and the proceedings in respect to the commissions of Colonel Boone, Lieutenant-Colonel Johnson, and Major Gault were unusually irregular even in those days of conspicuous irregularity. (See communication of Adjutant-General Townsend, United States Army, on file in this case, dated March 23, 1872, viz:

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
March 23, 1872.

Respectfully returned to the Secretary of War.

This case has been before the department several times. The facts, in Gault's own words, appear to be as follows:

"On October 6, 1861, a Colonel Boone was authorized by General Anderson to raise a regiment. On this authority Boone authorized A. Y. Johnson as lieutenant-colonel and myself as major. We proceeded at once to the duties, and on November 6, 1861, was ordered on active service by General Sherman. Remained in active service until January 7, 1862, when, at New Haven, Ky., we held an election for field-officers, which resulted in the election of Boone as colonel, Johnson as lieutenant-colonel, and myself as major; but when Boone went to Frankfort, Ky., they informed him that he could not draw pay as colonel, and if he was commissioned colonel, Johnson and myself would get the pay, and he would get none until the regiment was full. They then issued commissions to Boone as lieutenant-colonel, and Johnson as major, and left me to fill up the regiment."

The official records do not show that he was engaged in recruiting and other services until a vacancy occurred for him as major, when, on April 15, 1863, he was mustered in that grade.

The records of this office show that no vacancy existed for Gault as major until March 14, 1863, the date of acceptance of the resignation of Maj. A. Y. Johnson, of that regiment; further, although Gault appears on the return of regiment for January, 1863 (the first which bears his name), his name is not borne on any roll of field and staff prior to March and April, 1863.

Copies of letters from this office giving adverse decisions in this case, dated December 30, 1862, and March 27, 1863, together with indorsements of August 5 and November 18, 1862, are herewith.

The complications in the case have arisen from the *contest for place*, and such contests were numerous during the rebellion.

E. D. TOWNSEND,
Adjutant-General.)

This plan of making a man colonel if that suits, and lieutenant-colonel if that don't suit, and so on, is revelation to the committee supposed to be conversant with the methods, regular and irregular, resorted to during the war.

It appears, however, that Lieutenant-Colonel Johnson was captured July 12, 1863, and Colonel Boone, August 12, 1862, and remained prisoners until exchanged in February, 1863, when, very shortly after, Johnson resigned.

It is also clear that Major Gault was put on duty as major by the general commanding United States forces in Kentucky, by an order dated August 16, 1862, and did perform those duties in command of the regiment, both field-officers being prisoners as aforesaid. The order of assignment is as follows:

Special Orders No. 30.

HEADQUARTERS U. S. FORCES IN KENTUCKY,
Louisville, Aug. 16th, 1862.

[Extract.]

* * * * * * *

Maj. John Gualt of the 28th Regt. Ky. Vols. is hereby ordered to report to Col. J. D. Bruce at Bowling Green. He will take command of the battalion of his regt. at that post.

* * * * * * *

By command of Brig. Gen'l Boyle.

H. C. McDOWELL, *A. A. G.*

He continued thus to serve as a field-officer till his actual muster, April 15, 1863.

The committee has examined carefully the report of the House committee, as follows:

[House Report No. 477, Forty-fifth Congress, second session.]

Mr. BRAGG, from the Committee on Military Affairs, submitted the following report, to accompany bill H. R. 4287:

The Committee on Military Affairs, to whom was referred the memorial of John Gault, jr., asking pay for services as major in the volunteer service, submit the following report:

It appears from the memorial and evidence filed in its support that the Twenty-eighth Regiment Kentucky Volunteer Infantry was organized in defense of the Union on the 8th day of October, 1861, under the authority of General Robert Anderson, then in command of the Department of the Cumberland.

That John Gault, jr., assisted in the raising and organizing such regiment, and was elected the major thereof; that the regiment, before it was filled up so as to entitle it to its full quota of field officers, went upon duty by command of Brig. Gen. W. T. Sherman, who had assumed command of that department on the 6th day of November, 1861.

That the claimant attended upon such regiment, assuming and performing voluntarily the duties of major of such regiment, and so continued to discharge the duties until his muster as major, which did not occur until April 15, 1863, and from which last date the claimant has received pay only.

That the claimant, though performing the duty voluntarily, did so upon the understanding and belief that the authority had been given by the War Department to muster a full quota of field and staff officers for the volunteer regiments in Kentucky without regard to their being below the minimum.

'idence in support of the claim does not show any recognition of Major Gault
icer of the United States until August 16, 1862, when, by Special Orders No. 30,
ırters United States forces in Kentucky, by command of Brigadier-General
he claimant, John Gault, jr., as major of the Twenty-eighth Kentucky Volun-
ıntry, by name, was assigned to the command of the battalion of his regiment.
› prior services performed do not of themselves imply any knowledge on the
government officers having authority that in issuing orders to or receiving the
of the regiment they were using, directing, or receiving service from Major
ıut were incidental to orders issued to and service done by the regimental
ıtion, irrespective of the person holding or claiming to hold the office of major.
e 7th of November, 1862, by Special Orders No. 77, headquarters United States
Bowling Green, Ky., Major Gault was detailed by name for duty on board of
and from thence until he was in fact mustered, April 15, 1863, he continued
ging his duties, recognized by the military authorities of the United States,
good faith believing he was entitled to and would be recompensed therefor by
ernment.
ı portion of the time in which he was so serving the government he was in
mand of his regiment, and the only field-officer with it; the colonel being
d and the lieutenant-colonel being a prisoner.
the delay in his muster and the commencement of the allowance of pay to the
t grew out of the fact that the regiment was below minimum strength, and
ıe claimant could have been mustered, the officer who nominally held the
the claimant in fact filled was in prison, and could not be mustered out so
jor Gault could be mustered in.
committee are of opinion, upon these facts, that in justice and equity, as well
principles governing common-law liability, from the date when the govern-
nowingly accepted and availed itself of the services of Major Gault, he sup-
in good faith that in the rendition of such service the government was bound
would repay him, with the pay and allowances of the grade in which his
was rendered and accepted, the claimant is entitled to receive the pay and
ces of a major of infantry; and report herewith a bill allowing John Gault,
pay and allowances of a major of infantry from August 16, 1862, to April 15,
d recommend that the same do pass.

ıtever irregularity there may have been in the issuance of com-
ns, Gault is not responsible for it. He could not claim or exercise
ık of major while the duly-commissioned major was with the reg-
yet both Boone and Johnson, the proper field-officers, and, as the
ttee think, lieutenant-colonel and major, were captured. The
ent or battalion, whichever it was, was without a field-officer.
ommander of the United States forces then did, August 16, 1862,
izing the fact that Gault held a commission as major, order him
y in that capacity, and he did perform those duties, no one ques-
; his right.
ems, therefore, in justice and equity, he should be paid for his
s; and the committee therefore report back said bill without
ment, and recommend its passage.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 45.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 9, 1879.—Ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 128.]

The Committee on Military Affairs, to whom was referred the bill (S. 128) for the relief of Edward Shields and others, have had the same under consideration, and beg leave to submit the following report:

A similar bill was considered by your committee at the third session of the Forty-fifth Congress, and was favorably and unanimously reported to the Senate.

Your committee submit the report made then, which they now adopt and make a part of this report, as follows:

The Committee on Military Affairs, to whom was referred the bill (S. 1721) for the relief of Edward Shields and others, have had the same under consideration, and submit the following report:

This is a bill which appropriatest he sum of $8,000, to be disbursed by the Secretary of the Treasury in such proportions as he may deem just and equitable, to certain sufferers by the explosion which occurred at the United States arsenal at Bridesburg, Pa., on the 7th of August, 1875.

The papers on file with the committee, consisting of a report of United States officers convened to investigate the circumstances of the explosion at the laboratory of the Frankford Arsenal at Bridesburg, and affidavits from the sufferers, show that a number of persons were employed in the arsenal at the time of the explosion breaking up unserviceable metallic cartridges, and that the explosion was occasioned by one of the operatives tapping on the head of a cartridge-case and causing an explosion of the fulminate. The report of the board of investigation censures the officers in charge for allowing the large amount of powder to accumulate in the building at one time.

The explosion was so terrific as to blow several of the operatives entirely out of the building, killing three outright, and so severely burned and injured others as to make them cripples for life and incapable of supporting themselves.

The affidavits of the sufferers are accompanied by photographs of their persons showing their injuries. Some of these sufferers are still under a physician's care.

In view of the fact that the cause of these people being injured appears to have been the result of the carelessness of the government officials in charge, in allowing a magazine of powder to accumulate in the room where the operatives were working, and that they were thus subjected unnecessarily to extra risk of life and limb, your committee are of opinion that these sufferers have a claim upon the consideration of the government.

The following letter addressed to Hon. George E. Spencer, chairman of the Senate Committee on Military Affairs, by some of the sufferers, appeals to the sympathy of your committee and to Congress:

FRANKFORD ARSENAL, PENNSYLVANIA,
February 1, 1879.

DEAR SIR: There is now pending in Congress a bill for the relief of the sufferers by xplosion at Frankford Arsenal, August 7, 1875, by which accident some of us have

lost our only sons, to whom we had been looking with fond hopes that in our declining years we would have them with us as helpmates and comforters, whilst others of us have left to us crippled children that will ever be dependent upon us.

We all of us have served in the Army for periods ranging from eighteen to thirty-two years, or are the widows of old soldiers, who are now left in a helpless and destitute condition, and thus appeal to you to give whatever assistance to the bill that your just and humane feelings may dictate. Accompanying the bill you will find photographic pictures of the surviving sufferers, showing the character and extent of their burns, and what must have been their great sufferings during the many months of their recovery.

With great respect, your obedient servants,

MICHAEL FARRELL.
HUGH McLAUGHLIN.
HENRY STEGER.
EDWARD SHIELDS.
ELLEN BUTLER.
MARY WILLIS.

Hon. GEORGE E. SPENCER.

Appended will be found the petition of the sufferers, with a statement of precedents in cognate cases; also a brief statement of persons killed, wounded, and maimed by this explosion:

WASHINGTON CITY, D. C.,
January 8, 1879.

GENTLEMEN: Your petitioners respectfully state that they are sufferers by the explosion in Bridesburg Arsenal, Pennsylvania, August 7, 1875.

We submit herewith a copy of the official report of the explosion; also extracts from the newspapers of Philadelphia referring to the accident.

Our individual statements inclosed will inform you of the terrible suffering, physical and mental, this dreadful accident has caused us, and we earnestly pray your honorable body to give us such relief as has been given sufferers in similar cases, and receive the grateful thanks of the afflicted, crippled, and widowed victims of this explosion.

EDWARD SHIELDS.
RICHARD J. WILLIS.
JOSEPH N. FARRELL.
HERMAN H. STEGER.
DANIEL ROSS.
CHARLES DEARDEN.
WM. H. McMILLAN.
HUGH McLAUGHLIN.
ELLEN BUTLER.
NICHOLAS ZILLIER.
J. VAN SANT.
WM. DEAL.
FREDERIC H. KLOTZ.
ALFRED ALTEMUS.

The Hon. COMMITTEE ON MILITARY AFFAIRS,
House of Representatives.

P. S.—Your attention is respectfully invited to the act of Congress approved March 17, 1866 (vol. 14, United States Statutes at Large, page 351), which makes appropriation for the relief of the sufferers by the explosion at the arsenal in Washington, D. C. In this connection we are informed that nearly, if not all, of the sufferers were provided with good positions under the United States Government, besides receiving the amount appropriated. You are also referred to the act approved July, 1876 (vol. 19, United States Statutes at Large, page 455), appropriating $3,000 each to John T. King and L. B. Cutler, employés of the United States Senate, who were injured by an explosion of gas. The amount placed in the original bill only covered four cases. Since its introduction all of the claimants, fourteen in number, have joined in the application and filed affidavits of injuries herewith; the amount should be proportionally increased and the additional names inserted in the bill.

Brief statements of persons injured by the explosion at the Bridesburg Arsenal.

Joseph Farrell, aged 11 years at the time of the accident, was blown out of the building and burned in the most shocking manner both internally and externally. His memory is impaired, and in all probability he will be a sufferer for life. Under physician's care for 10 months. Is entirely helpless.

John McLaughlin, killed, had escaped from the building, but was struck by a piece of timber. He was a bright, intelligent lad of 15 or 16 years of age. His father is an old soldier of 32 years' service in the United States Army, and makes a strong appeal to Congress for some compensation for the loss of his main support and reliance.

Charles Dearden was blown out of the building, and so severely burned as to render him incapable of pursuing any occupation for over one year.

Herman H. Steger, 17 years of age, seriously burned about the face and neck. Was under the care of a physician for nine months, and is a cripple for life. Says that 80,000 filled cartridges were stored in the room they were working in. The room was "a powder magazine."

Wm. H. McMillan was blown out of the building, and so badly injured that he is a cripple for life.

Richard J. Willis. His mother, who is the widow of a soldier, says he was 14 years old at the time of the accident. He was so severely injured that he is a cripple for life. He was 18 months under treatment at her expense. He and three other children are dependent entirely upon her for the necessaries of life. She makes a strong appeal to Congress for relief from her almost destitute condition.

Edward Shields, jr., was about 13 years old at the time of the explosion. His father says he was injured in the most terrible manner, lost the entire use of one arm, and will in all probability become totally blind. Is at this date (December, 1878) still under medical treatment. His father is an old soldier, and earnestly asks for relief from Congress. Young Shields's affidavit, herewith, substantiates his father's statement, and says: "I cannot explain my case any better than by saying I am afflicted for life through no fault of my own."

Daniel Ross, under oath, says, "I was 16 years old when the explosion occurred." He was badly burned on his left arm and breast; was an invalid in consequence for 18 months. His arm is deformed and the muscles so badly shattered that it is almost useless.

Ellen Butler, under oath, says she is the mother of John A. Butler, who was killed at the arsenal explosion. He was 13 years old at the time of his death. Her husband was so shocked by his death that he became insane and has remained so ever since. She was left by this accident destitute and helpless, with two small children and a deranged husband to support. She makes a pitiful appeal for Congressional aid.

George B. Zillier, aged 16, killed while in employment at arsenal. Claim made by parents.

J. E. Van Sant, burned so as to be disabled from work for six months.

William Deal, injured for life; could not work at all for five months; never will fully recover.

F. Klotz, so badly injured as to be incapable of work for three months.

Howard Altemus, severely injured and kept from work.

The premises considered, your committee report back the bill with certain amendments and corrections of names in accordance with the papers on file, and earnestly recommend that the same do pass.

Your committee, therefore, recommend the passage of the bill.

C

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 46.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 9, 1879.—Ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 468.]

The Committee on Military Affairs, to whom was referred the bill (S. 468) for the relief of John W. Cheeks, have had the same under consideration, and beg to submit the following report:

It appears, from the papers filed with this case, that John W. Cheeks nlisted on the 14th day of April, 1864, in Company D, Thirty-third legiment United States Infantry, for three years, and was discharged n the 20th day of June, 1867, on account of expiration of service, his ischarge certifying that his character was good. During this term of nlistment, and while holding the rank of corporal, his company was tationed at Mobile, Ala. In August, 1866, he applied to the comanding officer for a furlough, which was refused. After this refusal e handed over his arms to the first sergeant of his company and abented himself, remaining away from his company one month and six ays.

He re-enlisted on the 1st day of July, 1867, and served in Company), Eighth Regiment United States Infantry, for three years, during hich time he was appointed to the position of sergeant, and was disharged on the 1st day of July, 1870, his certificate of discharge bearing he inscription, "character, excellent."

He again re enlisted on the 1st day of July, 1870, in the same comany and regiment, for the term of five years, and was discharged in onsequence of paragraph 7, standing order No. 78, dated War Departent, Adjutant-General's Office, Washington, April 2, 1872, his disharge again certifying that his character was good.

On the 24th day of October, 1876, he applied, through his attorney, to he Secretary of War to have the charge of desertion, which appeared on is record, removed, giving as a reason for the removal of this charge that e (Cheeks) had not deserted, but that he was simply "absent without eave," and stating that he had been summoned home by his father to e his sister, who was at the point of death, and who died before he eached there; that very soon after his arrival at home he was taken ith small-pox, which prevented him from returning to his company as on as he had intended, and that after he got well he voluntarily reurned and reported to his commander. He further states that he had ver been tried upon the charge of desertion, but was very soon afterards promoted to the rank of sergeant, and at the end of his term honrably discharged with a good character.

The Secretary of War, in answer to a subsequent letter of the attorney of Mr. Cheeks, wrote as follows:

WAR DEPARTMENT, WASHINGTON CITY, *January* 3, 1877.

SIR: Your letter of the 27th ultimo, relative to a previous application for removal of the charge of desertion against John W. Cheeks, Company D, 33d Infantry, has been carefully considered, and I have respectfully to state that while no proper ground seems to exist for a reversal of the decision of the Adjutant-General by this department, it is thought the mitigating circumstances and attending facts of his restoration to duty without trial, to serve out the time lost, and finally his honorable discharge, are for the accounting officer to consider in connection with any claim the soldier may bring for bounty, &c., and that the decision of the Supreme Court, referred to by you, is for the accounting officer's attention, but cannot affect or change the record here.

Very respectfully, your obedient servant,

J. D. CAMERON,
Secretary of War.

J. H. WALL, Esq., 1411 *G Street, city.*

The fact, as stated, that he handed his arms to his sergeant before leaving and voluntarily returned to his company, and that he was not tried for desertion, is not, in the judgment of the committee, sufficient proof that he was not a deserter, nor is it sufficient to warrant the department in removing the charge. The fact that he was not tried was simply an act of negligence on the part of his commanding officer, and does not in the least excuse him for absenting himself from his company in the manner he did. That he served faithfully during the balance of this enlistment and re-enlisted twice afterwards, each time receiving an honorable discharge with an excellent character, is, in the opinion of your committee, sufficient to warrant Congress in authorizing the proper officer to obliterate the charge of desertion from the record, but this could not, in the judgment of your committee, be done without an act of Congress.

We, therefore, taking all the attending circumstances into consideration, recommend the passage of the bill.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 47.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 9, 1879.—Ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 252.]

The Committee on Military Affairs, to whom was referred the bill (S. 252) for the relief of Frank A. Page, have had the same under consideration, and beg leave to report:

That, having examined the records of this officer in the War Department and his subsequent record as a clerk in the Treasury Department, they deem it inexpedient to recommend his restoration to the retired-list of the Army.

Your committee, therefore, ask to be discharged from the further consideration of the bill, and that it be indefinitely postponed.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 48.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 9, 1879.—Ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 480.]

The Committee on Military Affairs, to whom was referred the bill (S. 480) for the relief of William P. Patrick, have had the same under consideration, and beg leave to submit the following report:

The only evidence in this case is an affidavit of the claimant himself, setting forth that while he was in the service of the Government of the United States as mule-packer, he was temporarily employed in the office of the assistant quartermaster at Chattanooga, Tenn., from August 1 to October 25, 1863. There is no evidence before the committee showing that the services he performed while engaged there were any more arduous than they would have been had he remained in his regular situation as mule-packer. For this reason the committee do not consider that he is entitled to any additional compensation.

Your committee, therefore, ask to be discharged from the further consideration of the bill, and recommend its indefinite postponement.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 49.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 9, 1879.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 368.]

The Committee on Military Affairs, to whom was referred the bill (S. 368) for the relief of Emanuel Klauser, beg leave to submit the following report:

A bill precisely similar to S. 368 was introduced in the 45th Congress and referred to your committee, and the following report was made thereon by Mr. Cockrell:

[Senate report No. 572, 45th Congress, 3d session.]

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following report, to accompany bill S. 1540.

The Committee on Military Affairs, to whom was referred the bill (S. 1540) for the relief of Emanuel Klauser, late corporal of Company H, Fifty-fourth Regiment Illinois Volunteers, have duly considered the same, and submit the following report:

A precisely similar bill was pending in the Forty-fourth Congress, and was then referred to the Committee on Military Affairs, and the following report was made on January 30, 1877:

[Forty-fourth Congress, second session. Report No. 620.]

Mr. COCKRELL submitted the following report, to accompany bill H. R. 4248.

The Committee on Military Affairs, to whom was referred the bill (H. R. 4248) for the relief of Emanuel Klauser. late corporal of Company H, Fifty-fourth Regiment Illinois Volunteers, have duly considered the same, and submit the following report:

This bill directs the Secretary of War to remove the charge of mutiny against Emanuel Klauser, late corporal, &c., and grant him an honorable discharge. In the House the following report was made, to wit:

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 16, 1876.

The Military Committee, to whom was referred the petition of Emanuel Klauser, late corporal Company H, Fifty-fourth Regiment Illinois Infantry Volunteers, report the same back to the House, with a bill for the relief of said Emanuel Klauser, with the recommendation that it pass.

Your committee, upon a careful examination of all the facts in this case, find that the said Corporal Klauser served his country faithfully and honorably in the field from 1861 to the date of his trial by court-martial, on the 31st day of July, 1865, when he was found guilty of mutiny, at Pine Bluff, Arkansas.

Your committee also find that Corporal Klauser is highly indorsed by the late officers of his regiment and others as being a good soldier and of good moral character.

The sworn statement of Henry Hart, late captain Company H, and H. M. Scarborough, late lieutenant-colonel Fifty-fourth Regiment Illinois Volunteers, show that Emanuel Klauser was a young man under twenty-one years of age, a good and faithful soldier, ever ready and willing to perform his duty as a soldier, and that in their opinion said Emanuel Klauser did not intend to do any act of mutiny in his said company or regiment, and in this connection your committee call attention to the sworn statement of said Emanuel Klauser; and the Judge-Advocate-General, in a report as to the men of Company H, Fifty-fourth Illinois Volunteers, tried by general court-martial, states that, "while the incidents of the offense clearly establish the guilt of a willful disobedience of orders, there does not appear in the conduct of the prisoners the existence of that criminal animus which is necessary to complete the crime of mutiny."

The bill passed the House upon this report.

Your committee referred the bill to the Secretary of War for information and report, and received, through him, from the Adjutant-General, the following letters and inclosures, to wit:

ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., January 23, 1877.

SIR: Herewith I return communication of January 17, 1877, addressed to you from Hon. F. M. Cockrell, United States Senate, together with act H. R. 4248 (referred by him), to change the record of, and grant an honorable discharge to, Emanuel Klauser, late corporal Company H, Fifty-fourth Illinois Infantry, and have the honor to invite your attention to a report in the case, dated March 6, 1874, from this office to the Secretary of War (copy inclosed), and his action thereon, set forth in his letter of March 11, 1874, to Lieut. Col. H. H. Scarborough *et al.*, a press-copy of which is herewith.

I am, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

To the honorable the SECRETARY OF WAR.

The report therein referred to, dated March 6, 1874, is as follows:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, March 6, 1874.

Respectfully submitted to the Secretary of War.

Emanuel Klauser, late Company H, Fifty-fourth Illinois Volunteers, applies for removal of the charge of mutiny from his record, with a view to issue of an honorable discharge.

The man's application is indorsed by nearly a hundred late officers and soldiers of Illinois volunteers.

It appears from the records of this office that this man, and five others of Company H, Fifty-fourth Illinois Volunteers, were tried by general court-martial for mutiny, violation of 44th article of war, and conduct prejudicial to good order and military discipline. This man was found guilty of mutiny only. He was sentenced to be dishonorably discharged, from July 4, 1865, and to be confined in military prison at hard labor for and during the term of five years. Sentence approved and promulgated in General Orders, No. 10, Headquarters United States forces at Pine Bluff, July 31, 1865.

The unexecuted portion of the sentence in case of this man and the five others mentioned above was remitted by the President upon a petition and a report of the Judge-Advocate-General. The order of the President was promulgated in Special Orders No. 521, of September 29, 1865, from this office.

It appears from the papers that this man and the others, tried for mutiny and found guilty except one, joined company at original organization in 1861, and re-enlisted as veterans January, 1864, served honorably until July 4, 1865, when, the regiment being ordered out on parade to hear an oration, and these men believing their term had expired, refused to obey the order.

The Judge-Advocate-General, in his report of September 20, 1865, prior to the receipt of the record by him of the trial, stated that while the incidents of the offense clearly establish the guilt of a willful disobedience of orders, there does not appear in the conduct of the prisoners the existence of that criminal animus which is necessary to complete the crime of mutiny; that a strong doubt of their intent to rebel against a lawful order or to combine in a violent resistance against the authority of their commanders is strengthened by the record of their long and honorable service, and by the existence among them of a belief that they were entitled to be mustered out and discharged.

It is presumed that the proceedings of the court are now on file in the Judge-Advocate-General's Office.

Any favorable action in case of these six men will necessitate the setting aside the proceedings of the general court-martial in their case, in order to enable them to receive honorable discharges and pay in place of the dishonorable discharges furnished in accordance with their sentence.

E. D. TOWNSEND,
Adjutant-General.

The letter of the Secretary of War, dated March 11, 1874, therein referred to, is as follows:

WAR DEPARTMENT, *March* 11, 1874.

GENTLEMEN: Referring to your petition of the 13th ultimo, praying that an honorable discharge be granted Emanuel Klauser, late corporal Company H, Fifty-fourth Illinois Volunteers, I beg to inform you that the Judge-Advocate-General, in a report as to the men of Company H, Fifty-fourth Illinois Volunteers, tried by general court-martial, states that "while the incidents of the offense clearly establish the guilt of a willful disobedience of orders, there does not appear in the conduct of the prisoners the existence of that criminal animus which is necessary to complete the crime of mutiny; still, as the proceedings were regular and the sentence fully executed, the Executive is powerless to afford the relief desired.

Application should be made to Congress; and the papers are accordingly returned, in order that they may be so submitted if desired.

Very respectfully,

WM. W. BELKNAP,
Secretary of War.

Lieut. Col. H. M. SCARBOROUGH,
Capt. HENRY HART, and others,
Shelbyville, Shelby County, Illinois.

Emanuel Klauser was arraigned before a court-martial, charged with mutiny, a violation of the present 22d article of war, and with failing to repair at the fixed time to the place of parade appointed by his commanding officer, a violation of the present 33d article of war (then 44th article), and with conduct prejudicial to good order, &c., was tried in 1865 and found guilty of *mutiny only*, and acquitted of the other charges. His sentence was, "to be dishonorably discharged from July 4, 1865, and to be confined in military prison at hard labor for and during the term five years." This sentence was approved by the commanding officer of the United States forces at Pine Bluff, Ark., July 31, 1865. The President, by Special Orders No. 521, on September 29, 1865, remitted the then unexecuted portion of the sentence.

His regiment was ordered out *on parade to hear an oration* on July 4, 1865, at Pine Bluff, Ark., and out of this grew these charges, this trial and sentence. Emanuel Klauser was sick on July 4, 1865, was excused by his orderly sergeant from attending parade to *hear the oration*, and was consequently acquitted of this charge.

The Judge-Advocate-General admits that "there does not appear in the conduct of the prisoner the *existence of that criminal animus which is necessary to complete the crime of mutiny*," but states that "*the incidents of the offense clearly establish the guilt of a willful disobedience of orders.*" The court-martial, however, acquitted him of the charge of disobedience of orders—refusal to attend the *parade* to hear *an oration*—and found him guilty of mutiny only, thus disagreeing with the Judge-Advocate-General's judgment. The proof of mutiny consisted of a conversation between this corporal and a captain, on the evening of July 3, 1865, in relation to the contemplated parade on July 4, in the presence of these two persons only. What the *oration* was, or was to be, is not stated. The necessity of this oration is not shown.

Klauser had been a noble and faithful and obedient soldier, of high moral character, and for this alleged offense was punished with what seemed clearly to be a "cruel and unusual punishment," and an "excessive fine imposed."

However loath your committee may be to interfere with the proceedings of courts-martial, yet they feel that this case peculiarly demands favorable action by Congress, and they therefore report back the bill as it passed the House, without amendment, and recommend that it do pass the Senate.

The bill in the Forty-fourth Congress passed the House and was favorably reported in the Senate, placed on the calendar, and no final action had.

Your committee have again duly considered this bill, and fully indorse the foregoing report, and recommend that the bill be passed by the Senate.

Your committee further report that a petition for the relief of applicant was presented in the House of Representatives in the Forty-fourth Congress, and a bill for his relief was duly passed and sent to the Senate, and in the Senate was favorably reported by your committee, but no final action was had; and in the Forty-fifth Congress the bill similar to the present one was passed and sent to the House of Representatives, but no final action had.

Your committee have again given due consideration to this bill, and fully indorse the foregoing report, and again recommend the passage of the bill.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 50.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 10, 1879.—Ordered to be printed.

Mr. BAYARD, from the Committee on Finance, submitted the following

REPORT:

[To accompany bill S. 618.]

The Committee on Finance, to whom was referred the bill (S. 618) for the relief of Herman Holman and Crawford Fairbanks, having had the same under consideration, submit the following report;

The memorial of Messrs. Holman & Fairbanks, distillers of Terre Haute, Ind., sets forth at some length the particulars of their business during the period (October, 1878, and January, 1879), in which the tax now complained of was levied on them for deficiencies in production.

The Commissioner of Internal Revenue has been heard before the committee in reply, and the report of his trusted and expert subordinate has also been laid before the committee.

The statements of the petitioners and of the Commissioner do not materially vary, and the important fact is conceded and established to the satisfaction of the committee that all lawful taxes have, in fact, been fully paid by Messrs. Holman & Fairbanks on all the spirits actually distilled by them, including the period of the alleged deficiency.

But the Commissioner is fully sustained by your committee in his construction and administration of the law as he finds it on the statute book, and which compels him to assess and collect tax upon the registered capacity of the distillery.

The facts disclosed, however, warrant your committee in recommending an abatement of the tax so assessed, for discrepancy between registered capacity and actual production, because of the unavoidable accidents to the machinery, which, despite every endeavor on their part, reduced their actual production, and yet prevented the distillers giving that formal and immediate notice of temporary reduction in their registered capacity of distillation, which was required by law.

On the conceded ground that no fraud was intended, and none committed, but that the petitioners, conducting an extended business, and having a long record of honesty and good citizenship accorded them, your committee report the accompanying bill for their relief, and recommend its prompt passage.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 51.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 15, 1879.—Ordered to be printed.

Mr. BAYARD, from the Committee on Finance, submitted the following

REPORT:

[To accompany bill S. 324.]

The Committee on Finance, to whom the bill (S. 324) for the relief of Somerville & Davis was referred, having had the same under consideration, submit the following report:

The closing sentences of the letter from the Secretary of the Treasury, May 17, 1878, to the then chairman of this committee (Mr. Morrill, of Vermont), contains a judgment upon this case in which your committee fully concur:

* * * * * * *

* * * This department, upon investigating the matter, ascertained that such representations were true, and that the original claim of the importers was correct.

The department, however, owing to the failure of the importers to bring suit within 90 days from the date of its decision on their appeal, whereby, under section 2931 of the Revised Statutes, such decision became final and conclusive, was unable to grant any relief to the importers in the premises.

From the foregoing it will be seen that the importers *are equitably entitled to have their entry of the said goods reliquidated at a duty of* 35 *per cent.* ad valorem, and to have the excessive duties refunded to them, but that, owing to their failure to comply with the requirements of the provisions of law above specified, such course cannot be taken without authority from Congress.

I think the bill should be passed.

Very respectfully,

JOHN SHERMAN, *Secretary.*

Wherefore, your committee report the accompanying bill and recommend its passage.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 52.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 16, 1879.—Ordered to be printed.

Mr. FERRY, from the Committee on Finance, submitted the following

REPORT:

[To accompany bill S. 17.]

The Committee on Finance, to which was referred the bill (S. 17) for the relief of Albert Towle, postmaster at Beatrice, Nebr., respectfully report:

That on the night of the 25th of October, A. D. 1869, the post-office building at Beatrice, Nebr., was entered by burglars, and United States revenue-stamps to the amount of $365 and other property were stolen therefrom. Those facts are stated in the memorial of Albert Towle, the postmaster. The affidavits of five prominent business men of Beatrice verify the sworn statement of Postmaster Towle. It appears from the papers that the utmost diligence, faithfulness, and care had been exercised in the administration of the affairs of the office; that the said post-office was kept in a new and substantially-constructed building used exclusively for such purpose; that the doors were securely locked and the windows carefully fastened; that the stamps were deposited in the drawer of a table, which was locked. It being a small office, there was no safe.

It further appears that one of the windows of the office was entirely broken out in the night-time, the drawer of the table forced open, the stamps taken therefrom, and other property of much greater value stolen from other parts of the office by the burglars. It also appears that prompt and most thorough efforts were made by the petitioner for the recovery of the property and the apprehension and punishment of the thieves. A communication from the Post-Office Department, showing that Postmaster Towle had at the time of the robbery a somewhat larger amount of stamps in his possession than that named in his memorial, accompanies this report. A petition, signed by all the prominent citizens within the post-office delivery, indorsing the high character of the petitioner as a man and a public officer, is also one of the papers accompanying this report. He is still the postmaster, and has had the longest continuous service of any officer in the State of Nebraska.

In view of all the facts in the case, the committee unanimously recommend that Albert Towle, postmaster at Beatrice, Nebr., be reimbursed for the loss of revenue-stamps to the amount of $365; and to secure that result present the accompanying bill, with the recommendation that it do pass.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 53.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 16, 1879.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 2803.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2803) for the relief of Doddridge & Davis, respectfully submit the following report:

The relief proposed is to authorize the issuance of duplicate of draft No. 45923 drawn by E. B. Atwood, captain and assistant quartermaster, October 15, 1878, to order of Doddridge, Davis & Caden, on the assistant treasurer of the United States at New York, for the sum of $1,827.89 and endorsed by Doddridge, Davis & Caden to Doddridge & Davis. This draft was alleged to have been lost in transmission through the mail to the Marine National Bank of the City of New York, and was never received and never paid. The facts are sufficiently set forth in the report of the House Committee on Military Affairs, and said report is hereby adopted, as follows:

Mr. UPSON, from the Committee on Military Affairs, submitted the following report:

The Committee on Military Affairs, to which was referred House bill No. 2277, for the relief of Doddridge & Davis, bankers, of Corpus Christi, Tex., on account of the loss of a quartermaster's check, beg leave to report:

It appears from the certificate of Capt. E. B. Atwood, assistant quartermaster United States Army, dated at San Antonio, Tex., February 10, 1879, that on the 15th of October, 1878, he, as such assistant quartermaster, issued in favor of Messrs. Doddridge, Davis & Caden, check No. 45923, on assistant treasurer of the United States at New York, for the sum of $1,827.89, on account of Army transportation. Also, from the affidavit of T. P. Rivera, cashier of the bank of claimants, Doddridge & Davis, that, on the 21st day of October, 1878, he, as such cashier, received from the firm of Doddridge, Davis & Caden said check, which was duly indorsed by said Doddridge & Davis, and mailed to the Marine National Bank of New York on the day the same was received as aforesaid; that said Marine National Bank gave advice of the non-receipt of said check, and payment of the same was stopped at the office of the assistant treasurer in New York. Also, from the affidavit of John T. Murphy, bookkeeper of said firm of Doddridge, Davis & Caden, that said firm, in due course of business, on the 21st day of October, 1878, received and duly indorsed said check to said Doddridge & Davis. Also, from the affidavit of John D. Fish, cashier of the Marine National Bank of the city of New York, that Doddridge & Davis, of Corpus Christi, Tex., "keep, and have kept, an open account with and at the said Marine National Bank of the city of New York since and prior to the 15th day of October, A. D. 1878; that no such credit has been made to their account as is hereinafter described, to wit" (here follows a description of the check above referred to); and that said check he (deponent) believes to have been sent to said bank (referring to said Marine Bank) through the United States mail by said firm of Doddridge & Davis, and to have been lost in transit thereto. And from the letter of the assistant treasurer United States at New York, under date of June 17, 1879, it appears the check in question has not been paid.

Your committee, from the evidence before it, being fully satisfied that the cla $1,827.89 is just and unpaid, respectfully report the accompanying bill for th ment of the same, and recommend its passage.

The House bill is drawn in compliance with section 3646 of th vised Statutes, and provides for bond of indemnity, with sufficient ties, against claim of payees, indorsers, or any other person in posse or claiming the same, and to indemnify the United States again loss and damage in the premises, with provision against payment lost check, and passed the House December 12, 1879. Wherefor committee reports the bill back without amendment, and recomm its passage.

CONGRESS, } SENATE. { REPORT
Session. } { No. 54.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 16, 1879.—Ordered to be printed.

'OCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 296.]

Committee on Military Affairs, to whom was referred the bill (S. 296) the relief of Edward P. Vollum, have duly considered the same, and mit the following report:

the Forty-fifth Congress a similar bill was introduced and referred e Committee on Military Affairs, and the following report was then by said committee to the Senate:

bill requires the Secretary of War to ascertain the value of the property lost t. Surg. Edward P. Vollum, who, while under orders of the War Department, board the brig Fawn, bound for Fort Umpqua, Oregon Territory, when she recked on the 21st day of November, 1856, and provides for the payment of such *Provided*, That no allowance be made for any property except what was useful, ary, and proper for such an officer while on the voyage and engaged in the pub- vice.

r committee referred the bill to the Secretary of War, and received full informa- uching the premises, and through him the following report of the Adjutant- al, to wit:

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, April 4, 1878.

I have the honor to return herewith communication of March 26, 1878, from George E. Spencer, chairman Senate Committee on Military Affairs, and accom- g petition of Asst. Surg. (now Surg.) E. P. Vollum, for reimbursement of value sonal property lost by the wreck of the brigantine Fawn, in November, 1856, report as follows:

or-General Wool's report of the loss of the "Fawn" (laden with military stores, which Surgeon Vollum was a passenger), with the papers therein referred to, is hed in Ex. Doc. No. 76, House of Representatives, Thirty-fourth Congress, third , pages 250–252.

reports in question, together with the copies of letters transmitted herewith, h all the information bearing on Surgeon Vollum's petition afforded by the rec- f this office.

ve the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

on. SECRETARY OF WAR.

FORT UMPQUA, O. T.,
December 16, 1856.

I have the honor very respectfully to lay before you the following statement quest:

he 21st day of November last, while traveling to this post, pursuant to Special No. 117, dated Headquarters Department of the Pacific, Benicia, Cal., October 5, I was shipwrecked off the mouth of the Sinsclau River, O. T., and sustained n personal property to the amount of $700.

I respectfully request that you will call the attention of the Secretary of War to my loss, and the circumstances under which it occurred, with a request that he presents claim to Congress in my behalf for the above amount.

I have the honor, very respectfully, to be your obedient servant,

EDW. P. VOLLUM,
Assistant Surgeon, U. S. A.

Col. S. COOPER,
Adjutant-General U. S. A., Washington, D. C.

[Indorsements.]

Respectfully transmitted with the earnest recommendation that it may meet with the support of the proper authorities. Between this place and San Francisco there is no means of communication upon which an officer can rely for getting from one to the other point except sail vessels.

Very respectfully,

J. STEWART,
Captain Third Artillery, Commanding.

Approved and respectfully forwarded.

JOHN E. WOOL,
Major-General.

For letter April 21, 1857—reply to foregoing—see page 4.

ADJUTANT-GENERAL'S OFFICE,
Washington, January 7, 1858.

SIR: At the request of Asst. Surg. E. P. Vollum, Medical Department, U. S. A., I have the honor herewith to transmit to you as chairman of the Committee on Military Affairs on the part of the Senate, the memorial of that officer for reimbursement of losses sustained by him by the wreck of a transport upon which he was proceeding from San Francisco, Cal., to Umpqua City, Oreg., in the month of November, 1856.

I am, sir, very respectfully, your obedient servant,

S. COOPER,
Adjutant-General.

Hon. JEFFERSON DAVIS,
Chairman Military Committee, U. S. Senate, Washington, D.C.

ADJUTANT-GENERAL'S OFFICE,
Washington, January 7, 1858.

SIR: The memorial and accompanying papers forwarded with your letter of November 1, 1857, have been transmitted to Hon. Jefferson Davis, chairman of the Committee on Military Affairs on the part of the Senate, this being the disposition of them deemed to be the best for the attainment of the purpose you have in view.

I am, sir, very respectfully, your obedient servant,

S. COOPER,
Adjutant-General.

Asst. Surg. E. P. VOLLUM, U. S. A.,
Fort Umpqua, O. T.

ADJUTANT-GENERAL'S OFFICE,
Washington, April 29, 1858.

SIR: I transmit herewith a letter which has been received from Asst. Surg. E. P. Vollum, U. S. A., inclosing an account in detail of his losses at sea in November, 1856, to be placed with the memorial of that officer for reimbursement of said losses, which was sent to the Military Committee of the Senate with my letter of January 7, 1858.

I am, sir, very respectfully, your obedient servant,

S. COOPER,
Adjutant-General.

J. F. CALLAN, Esq.,
Clerk Military Committee, Senate, Washington, D. C.

ADJUTANT-GENERAL'S OFFICE,
Washington, April 21, 1857.

SIR: Your letter of the 16th of December last relative to the losses you sustained by shipwreck in the month of November, 1856, was not received until the 2d ultimo, too late to permit any action in the matter at the late session of Congress.

I am now instructed to inform you that your petition for relief should be made direct

to Congress and may be addressed to any member with whom you may be acquainted or to the chairman of the military committee of either branch.

I am, sir, very respectfully, your obedient servant,

S. COOPER,
Adjutant-General.

Asst. Surg. E. P. VOLLUM, U. S. A.,
Fort Umpqua, O. T.

The order under which Assistant Surgeon Vollum acted is as follows, to wit:

[Special Order No. 117.]

HEADQUARTERS DEPARTMENT OF THE PACIFIC,
Benicia, Cal., October 16, 1856.

[Extract.]

* * * * * * *

2. Asst. Surg. Edward P. Vollum will proceed to the post on the Umpqua, O. T., and relieve Assistant Surgeon Milhaw, who will then comply with the instructions given in Special Orders No. 44 of May 1, 1856, from the War Department.

By command of Major-General Wool.

W. W. MACKALL,
Assistant Adjutant-General.

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, April 4, 1878.

Official extract.

L. H. PELOUZE,
Assistant Adjutant-General.

Dr. Vollum duly presented his petition for relief in 1857, 1858, 1861, 1864, and then in 1878, and at one time a favorable report was made in the Senate, but no final action had. No action seems to have been had at other times. Dr. Vollum has therefore not been negligent in presenting his claim.

Dr. Vollum was on board this vessel under orders to go from California to Umpqua, Oreg., the only mode of conveyance at that time, and was in the discharge of official duty, and without fault or neglect on his part, and unavoidably, the vessel was wrecked and his necessary property—personal effects—was wholly lost.

There is a long line of precedents giving relief in similar cases.

Your committee believe Dr. Vollum is fairly entitled to relief, and report back the bill without amendment and recommend its passage.

Your committee have again given due consideration to this claim and find the foregoing report correct.

Surgeon Vollum, in his letter of December 16, 1856, to the Adjutant-General, states the amount of his loss at $700, and asks the presentation of a claim for that amount. Your committee recommend the passage of the bill herewith reported back to the Senate with an amendment added to the bill in the following words "and that the aggregate amount allowed shall not exceed the sum of $700."

○

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 55.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 16, 1879.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 401.]

The Committee on Military Affairs, to which was referred the bill (S. 401) for the relief of Peter Meagher, have duly considered the same, and submit the following report:

In the Forty-fifth Congress a bill (H. R. 4419) precisely similar to the present bill was passed by the House of Representatives and reported to the Senate, where no final action was had upon it. In the House of Representatives, Forty-fifth Congress, second session, the report No. 634, made on the then pending bill, was as follows, to wit:

It appears from the facts presented and the correspondence hereto annexed that Peter Meagher was a sergeant in Company M, First United States Artillery, in the year 1861; was stationed at Fort Jefferson, Florida. That in the months of June, July, and August of said year several vessels arrived at the post, under charter from the Navy Department loaded with coal, for the use of the Navy. That no provision had been made for unloading these vessels, and no laborers could be obtained except from the troops. Major Arnold, then commanding the post, entered into an arrangement with the said Peter Meagher, promising extra pay to himself and such soldiers of the command as would volunteer, when off duty, to unload these vessels.

It is shown that the work was executed by these men in a satisfactory manner, and a correct account kept and rendered for the time occupied for performing the same. The rolls show that Peter Meagher was employed thirty-seven and one-half days, at $2 per day; that he employed a number of men to assist at $1 per day, and that he paid to the following-named laborers, as per accompanying vouchers, viz:

Louis Helt, 8 days, at $1 per day	$8 00
Victor Helmkample, 8¾ days, at $1 per day	8 75
William M. Kinsman, 12¾ days, at $1 per day	12,75
James Riley, 5½ days, at $1 per day	5 50
Edward F. Riley, 25½ days, at $1 per day	25 50
French Richards, 20 days, at $1 per day	20 00
Charles Wilber, 14½ days, at $1 per day	14 50
Total paid out	95 00
Due Peter Meagher for 37½ days, at $2 per day	75 00
Total amount due	170 00

That the foregoing account is correct; that the services were performed with the advice of Maj. Louis G. Arnold, commanding Fort Jefferson; that it was impossible to procure other laborers at the time to perform this work; that the men were promised pay for the work done; and that the above amount, under the arrangement made between Major Arnold and Peter Meagher, is fairly due to the men who performed this work, is beyond reasonable doubt.

Your committee, therefore, recommend the passage of the accompanying bill.

In the Forty-fifth Congress, Mr. Cockrell, to whom the case was referred, addressed a letter to the Secretary of the Navy, and received the following reply:

NAVY DEPARTMENT,
Washington, February 18, 1879.

SIR: I have the honor to acknowledge the receipt of your letter of the 14th instant, inclosing H. R. 4419, for the relief of Peter Meagher, and the report of the House Naval Committee thereon, and requesting such information as the department may be able to furnish in relation to the claim of Meagher.

In 1876, Mr. Meagher presented his claim to the department, and with it such evidence as he had in his possession in support thereof. The files and records were examined for the purpose of confirming or refuting his statements, but very little was found to throw any light on the subject. It was ascertained that in the months of May and June, 1861, that cargoes of coal (1,358 tons) were shipped from Philadelphia to Tortugas, for the naval service, and duly receipted for by Lieutenant Benson, of the Army, stationed there.

This is believed to be the coal for which Meagher claims compensation for unloading.

The proofs presented, and subsequently withdrawn by him, were not such as to warrant the department in paying the claim, especially as it was one of fifteen years' standing, and the appropriations from which the money could have been taken were long since exhausted.

He renewed his claim in 1877, and the department, on the 24th of November of that year, wrote him that it could only pay out money as the law directs; that is, for necessary work done by order of naval officers; that when work was done without such order and it was necessary for the government, it was a charge against the United States and not the Navy Department; that the remedy was in the hands of Congress, which would provide for the payment of said bills when they were shown to be right.

The Naval Committee of the House have examined the facts and correspondence presented to them, and seem to be satisfied of the correctness of the account and recommend the passage of the bill.

I am unable to present anything from the records which would aid the Claims Committee of the Senate in determining its course of action.

The claimant had the appearance and bearing of a man of truth and honesty.

I inclose a copy of the opinion of the late Naval Solicitor John A. Bolles, dated March 1, 1876, in the case, by which the department was mainly governed in its refusal to pay the claim.

Very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. F. M. COCKRELL,
Committee on Claims, United States Senate.

Your committee have carefully examined the facts in the case and find the foregoing report substantially correct, and find that Peter Meagher, the claimant, is entitled in his own right to $75 for 37½ days' work at $2 per day, and as assignee of Louis Helt for 8 days, and of Victor Helmkample for 8¾ days, and of William M. Kinsman 12¾ days, and of James Riley 5½ days, and of Edward F. Riley 25½ days, and of F. Richards for 20 days, and of Charles Wilber 14½ days, being 95 days in all, at $1 per day, is entitled to $95, making in all $170.

Your committee recommend the adding of the following words at the end of said bill: "in full compensation for the services of himself and of Louis Helt, Victor Helmkample, William M. Kinsman, James Riley, Edward F. Riley, F. Richards, and Charles Wilber," and, as amended, recommend the passage of the bill.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 56.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 16, 1879.—Ordered to be printed.

Mr. RANDOLPH, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 137.]

The Committee on Military Affairs, to whom was referred the bill (S. 137) to aid the completion of the soldiers' and sailors' monument at Chalmette National Cemetery, Louisiana, beg leave to submit the following report:

The bill asks for a donation of fifty pieces of refuse granite in and about Fort Livingston, Louisiana, to aid in the completion of the soldiers' and sailors' monument at Chalmette National Cemetery, in the State of Louisiana.

The Secretary of War has furnished the committee with the following communication relating to the subject from C. W. Howell, captain of Engineers, U. S. A., indorsed by Gen. H. G. Wright, Acting Chief of Engineers:

U. S. ENGINEER OFFICE,
New Orleans, May 23, 1879.

Respectfully returned to the Chief of Engineers with the following information:

The granite called for in the bill (S. 137) consists of old pintle and traverse circle blocks of obsolete pattern.

The only use it could be put to, in case Fort Livingston should ever be remodeled to adapt it for a modern armament, would be use in making concrete.

It can be used to advantage in the Chalmette monument, as I know from having had the design and working drawings of the latter executed under my directions.

I am informed by the monument committee that they now have money enough to complete the monument (with exception of bronzes), provided the United States will donate this stone.

I would respectfully recommend that they be permitted to use it.

C. W. HOWELL,
Capt. of Engineers, U. S. A.

OFFICE CHIEF OF ENGINEERS,
Washington, May 27, 1879.

Respectfully to the honorable the Secretary of War, inviting attention to the preceding indorsement, which is approved by me. The stone is of little value for the purposes of the work at Fort Livingston.

H. G. WRIGHT,
Acting Chief of Engineers.

As the bill receives the indorsement and approval of the Engineer Department of the United States Army, and is concurred in by the Secretary of War, the committee recommend its passage.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 57.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 16, 1879.—Ordered to be printed.

Mr. RANDOLPH, from the Committee on Military Affairs, submitted the following

REPORT:

The Committee on Military Affairs, to whom was referred the memorial of the legislative assembly of Montana Territory, for the establishment of a cavalry post at or near Henry's Lake, in that Territory, beg leave to submit the following report:

The memorial was referred to the Secretary of War for information in relation thereto, who responds as follows:

WAR DEPARTMENT,
Washington City, April 9, 1879.

SIR: I have the honor to inform you that the memorial of the legislature of Montana Territory, requesting the establishment of a cavalry post at or near Henry's Lake in that Territory, for the protection of settlers against hostile Indians, which was inclosed in your letter of the 31st ultimo, and is herewith returned, has been referred to the General of the Army, who expresses the opinion that such a step is not advisable, for the reason that there are not troops enough now to occupy the posts already established in Montana.

Very respectfully, your obedient servant,

GEO. W. McCRARY,
Secretary of War.

Hon. T. F. RANDOLPH,
Chairman Committee on Military Affairs, United States Senate.

The Secretary deeming it inadvisable to establish the new cavalry post sought by the memorialists, for reasons set forth, your committee ask to be discharged from the further consideration of the subject.

O

TH CONGRESS, 2d Session. | SENATE. | REPORT No. 58.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 17, 1879.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 103.]

The Committee on Claims, to whom was referred the bill (S. 103) entitled "A bill for the relief of Rosa Vertner Jeffrey," has considered the same and submit the following report:

The petition, which is verified by the oath of the petitioner, was first presented to Congress on the 15th of December, 1873. The following facts appear from the petition and other evidence submitted therewith.

The petitioner is the wife of Alexander Jeffrey, a Scotch-born subject of the British Crown, now a resident of Lexington, Ky., and the daughter by adoption in early childhood and legatee of Daniel Vertner and Elizabeth Vertner, his wife, both now deceased, and late of Lexington, Ky.

Daniel Vertner died in the month of June, 1861, at Lexington, Ky., and his said wife, Elizabeth Vertner, died in the month of April, A. D. 1872. Daniel Vertner was, in his life-time and at the time of his death, the owner of a valuable mansion-house and stable in Lexington, Ky., and of a valuable library, plate, furniture, and other property in said house, and of two carriages, two horses, harness, and other articles of personal property, of which an inventory is submitted with the papers.

The petition states that at the death of said Daniel Vertner his widow became entitled by devise to a life estate in said mansion and personal property, with remainder over to the petitioner. On the 1st day of January, 1863, the said Elizabeth Vertner executed to the petitioner a written instrument, bearing date that day, by which, for a valuable and good consideration, she assigned, transferred, and set over to the petitioner all her right, title, and interest in the premises hereinbefore mentioned, and in and to the furniture in said house, including library, plate, &c., together with all claim for damages for use and spoliation that might thereafter be claimed or allowed by the United States for injury done in any way to said property, real or personal, caused by the military occupation of said premises.

Soon after the breaking out of the war, in August, 1862, the petitioner, with her husband and children and adopted mother, removed to Rochester, N. Y., where they remained till the close of the war, when they returned to Lexington. When the petitioner left Lexington, in 1862, she and her adopted mother securely closed said mansion-house, and packed and stowed away their books and plate therein.

In 1862, the Confederate general, E. Kirby Smith, while in possession of Lexington, during the invasion and temporary occupation of a

portion of Kentucky by the Confederate forces under General Bragg, took possession of said house and used it for a short time, about six weeks, as his military headquarters, using only one bedstead and one mattress. Such occupation was without the consent and against the will of either the petitioner, her mother, or husband, all of whom were residing in the State of New York. No material damage was done to any of said property, real or personal, by such use and occupation by the Confederate general. After a very brief occupation of said house the Confederate army retreated from Kentucky, and the house becom ing vacant, the same, together with all the furniture, plate, and othe personal property, was rented to one Dr. Major, who took possession o the same as tenant of Mrs. Elizabeth Vertner and the petitioner, an who, according to the terms of the lease, occupied said house an stables and used all said personal property; said lease and such use an occupation by said Dr. Major were terminated by the seizure of sai premises by the Federal forces for military headquarters and for tl uses of the Army of the Ohio. At the date of the occupation of tl same for the purposes stated, October, 1862, all said property, real a personal, was in good condition. It appears from numerous affidavi that the house was a large brick building located in a central portion the city, in a good neighborhood, was in good repair, and very han somely finished and furnished. Mr. Vertner was a gentleman of fortu and lived in excellent style. The house was elaborately furnished wi velvet and Brussels carpets; fashionable parlor, dining-room, and be room furniture, with two large book-cases with valuable books, han somely bound. In the language of one witness, "there was everythi in the house necessary in the way of furniture for an elegant, luxurio home."

In October, 1862, General Gordon Granger, United States Arm took possession of this house, without the consent of the petitioner Elizabeth Vertner, or their agent, and established his military hea quarters there, and he and his staff occupied the same as their hea quarters and residence; and from that date until April, 1865, this hou was continually occupied by the United States forces under orders different commanding generals, always against the wish and remo strance of petitioner and Mrs. Elizabeth Vertner. That such occup tion was successively by Generals Granger, Gillmore, Willcox, and tl staff of General Schofield, commanding the Department of the Ohi and of General Burbridge, and in pursuance of their military orde severally.

General Q. A. Gillmore says, in his certificate on file in the case:

The house referred to, in Lexington, Ky. (the Vertner house), was taken possessi of by General Gordon Granger, and was used by him during a portion of the autu and winter of 1862-'63 for headquarters district of Central Kentucky. As successor General Granger in that command, I occupied the house for a period of about thr months, and left it to my successor, General O. B. Willcox. Considerable damage w done to the buildings and furniture; how much it is impossible for me to estim with any accuracy. I always considered the owner to be entitled to rent and da ages on a fair and liberal basis.

Brevet Maj. Gen. O. B. Willcox says:

I relieved General Gillmore in command of the district of Central Kentucky on about the 10th of April, 1863. I found him in possession of the Vertner house as l headquarters, and occupied the same during the period of my command, two mont as my headquarters, not only as offices for myself, staff, and clerks, but myself, ai de-camp, and some other attachés slept in the building. In other words, the buildi was used, with its furniture, not only for *public offices*, but as *quarters*. The place w a *great* if not an *indispensable convenience*, as my quarters during those stirring tim had to be pitched where business could be transacted day and night. There was mu confusion in the State. Military operations were vigorously conducted under

direction by Carter Saunders, the Ninth Army Corps, and others, against the enemy, both on our front, carrying on a guerrilla warfare, on our left flank, and even within our lines. I am thus particular, but might go still further, to show how invaluable the conveniences of such a mansion as the Vertner house were under the circumstances, for Camp Nelson was being established, and the road to and from East Tennessee was kept open, and at my headquarters necessarily centered a large amount of business. So that the government received full consideration for the use of the premises.

General Willcox further states:

As to damages, the place had evidently been used pretty hard. The furniture, fixtures, walls, windows, &c., showed the evident marks of having been occupied by soldiers; and all bore the appearance of having been used by generals, clerks, orderlies, and subjected to such wear and tear as the rough usages of war entail. I was careful to avoid and prevent destruction of private property as a rule, but suppose that more or less damage must have happened under my occupation of the premises. On the whole, I think the claim is just for use and damages *necessarily* incurred—*unavoidably*, I might truly say—and of great service to the government.

General S. G. Burbridge states, in his affidavit on file in this case, as follows:

Deponent was appointed as commanding general of the military district of Kentucky by President Lincoln, as a special appointment, early in the year 1864, and soon afterwards deponent removed his headquarters, by order of General U. S. Grant, from Louisville to Lexington, Ky., where he took possession of the house of Mrs. Rosa V. Jeffrey for his headquarters. The house was a large, elegant mansion, with fine stables, and all the necessary appurtenances of a gentleman's residence. Deponent found the premises occupied by part of the staff of General Schofield, then commanding the Department of the Ohio. Deponent found said house had been very badly used and very much damaged, carpets worn out and useless, furniture used up, and all in a dilapidated condition—house, furniture, and surroundings. Deponent found no library there, or books of any kind, and deponent understood that said property, previous to his arrival, had been constantly used as Army headquarters. Deponent was relieved of his command, or rather headquarters was established at Louisville, in the spring of 1865, about April, when the premises were abandoned as military headquarters, when deponent says that what remained of the furniture, carpets, &c., in said premises were entirely worthless, and the house itself was left in very bad repair.

Mrs. Eliza B. Woodward states in her affidavit, on file, that she was born in Lexington, Ky., over sixty years ago, and, after stating in reference to the occupation of the house in question by the Federal troops, says:

Deponent further says that during the time the Federal forces occupied the said house, she was in the constant habit of going there on business connected with the hospitals of which she had charge, and saw the elegant satin damask furniture of the parlors used and abused by the occupants; * * * saw books of the library lying about; and she knows that all parts of the house were in use. * * * Deponent further states that the house and furniture were greatly damaged, but she does not feel herself competent to mention the sum of said damages. The house adjoining, not so good a house as that of Mrs. Vertner, has had $20,000 offered for it; this was about the close of the war.

The testimony very clearly establishes the fact that when the military authorities of the United States took possession of these premises in October, 1862, the house being a large one, with many rooms, was in good condition and repair, and very handsomely furnished throughout, and that when it was abandoned, about April, 1865, the house was greatly injured, wholly unfit for a residence, and its furniture, library, and other property almost entirely destroyed or gone; and that all this damage was done while in the possession of and under the control of the United States military authorities.

Your committee find that the possession and occupation of this house by the Federal troops for the time as stated was a very great convenience to our armies.

It satisfactorily appears that Daniel Vertner and Elizabeth Vertner, his wife, during their lives, and the petitioner at all times, were thoroughly loyal to the Government of the United States.

Whatever may have been the effect of the instrument purporting t be an assignment from Elizabeth Vertner to the petitioner, if the prop erty was devised by Daniel Vertner to the petitioner subject only to th life-estate of Elizabeth Vertner, his wife, as stated in the petition, tha life-estate is determined by the death of said Elizabeth Vertner in April 1872. The facts stated in the petition, verified by the petitioner, havin been so often accepted as sufficient proof of the devise, it would pe haps be too late now to raise any question as to the sufficiency of th proof upon this point.

Your committee are of opinion, upon this state of facts, that the Unite States should pay to the petitioner a reasonable compensation for th use and occupation of said premises.

The following order of the assistant adjutant-general of the depar ment is a military estimate of the rent of the premises:

DEPARTMENT OF THE OHIO,
ASSISTANT ADJUTANT-GENERAL'S OFFICE,
Lexington, Ky., January 25, 1864.

First Lieut. B. F. HOLMAN,
Acting Assistant Quartermaster and Post Quartermaster, Lexington, Ky.:

The commanding general directs that you take the house of Mr. Vertner, now occ pied as this office and the office of the judge-advocate of the department, upon yo rolls of "buildings hired," at a rent of $1,000 a year, to date from the 6th instant, t date the house was taken possession of for these offices.

Very respectfully, your obedient servant,

W. P. ANDERSON,
Assistant Adjutant-General.

It appears from the testimony that John B. Payne, jr., agent for pe tioner, and Mrs. Elizabeth Vertner, received from the government f their use on account of rent for said house while it was occupied, t sum of $1,656. That this is the only rent or compensation of any ki ever received, and this was received at the rate of $1,000 per annum.

There is no evidence whatever showing that any injury was done the stables; nor that the military authorities ever took or used the tw carriages, nor is there, in the opinion of the committee, any sufficie evidence that the horses were used by the military authorities. Th only testimony upon this point is found in the closing words of M Jeffrey's affidavit, as follows:

Deponent further saith that the two horses mentioned in this inventory were pu chased by Mrs. Rosa V. Jeffrey for the sum of $300, and were well worth that sum a more when taken by the United States military authorities to draw cannon. One said horses was reported as having died while used to draw cannon, and the other w returned as broken down and used up, and that it was sold for the sum of $90.

The personal property, furniture, &c., remaining when said premise were abandoned by the military authorities sold at auction for the su of $550.

The government, under the laws of war, is not liable for injuries whic are the result of the unauthorized and reckless acts of the soldier The majority of your committee are of opinion that the government i not liable in this instance for any portion of the damages claimed f injury to and destruction of the property of the petitioner.

Your committee find that the petitioner is entitled to the sum o $1,000 per annum for the use and occupation of the premises as the were situated, for the time they were occupied by the government, t wit, two years and six months, making in all $2,500, from which must b deducted the sum of $1,656 received by the petitioner on account thereof leaving a balance of $844 for the use and occupation of the premise This sum of $844 should be paid to the petitioner.

Your committee therefore recommend the passage of said bill.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 59.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 17, 1879.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 22.]

The Committee on Claims, to whom was referred the bill (S. 22) for the relief of Theophilus P. Chandler, with the accompanying petition and papers, respectfully submit the following report:

In the Forty-fifth Congress, S. 1531, precisely similar to the present bill, was referred to your committee and favorably reported December 18, 1878, and passed by the Senate January 10, 1879, and sent to the House of Representatives, where no final action was had. The report of the committee is as follows:

The Committee on Claims, to whom was referred the petition of Theophilus P. Chandler, late assistant treasurer at Boston, Mass., report:

The facts of this case are as follows:

The petitioner was assistant treasurer at Boston from June, A. D. 1863, to June, 1868.

In December, January, and February, A. D. 1866–'67, Julius F. Hartwell, disbursing clerk, secretly loaned Mellen, Ward & Co. several large amounts from the subtreasury which were got in by him each month before monthly examination, and were finally put in by him on the last day of February, when he confessed the transaction.

The whole matter was immediately reported to the Treasury at Washington, and Hartwell and other participants criminally punished.

The transactions were largely in gold certificates, authorized by act of March 3, A. D. 1863, section 5, which then circulated as gold coin, but were so compact that, as the evidence shows, $580,000 of them were easily concealed in a side-pocket.

The evidence further shows that all the parties at the subtreasury, unless Hartwell, believed that the recovery of the funds was lawful and in good faith; but in A. D. 1867 the Supreme Court decided that $480,000 of gold certificates so turned in belonged to the State National Bank of Boston, and gave judgment against the United States for them; and other claims for smaller amounts are pending, so that the United States has suffered a loss for which, technically, Mr. Chandler may be liable.

The evidence further shows that Hartwell had been and was employed in the subtreasury before and at the time Chandler was appointed; that he had an unquestionable reputation for integrity and skill; that there was no reason to suspect him; that monthly and special examinations were made, at which his cash had always been correct; and that all his transactions with Mellen, Ward & Co. were within a period of three months, and none continued for a month, so that there was short time for detection.

The act of March 19, 1862 (Statutes at Large, volume 12, page 373), fixed the title of Hartwell's position as disbursing clerk, and that of July 13, 1866 (volume 14, page 92), fixed the number of clerks in the office, and their several salaries.

In the criminal proceedings against this same Hartwell (6 Wallace, page 393), the Supreme Court declared that "the defendant was appointed by the head of a department" (*i. e.*, the Secretary of the Treasury), "within the meaning of the Constitutional provision upon the subject of the appointing power," and was an officer of the government charged with the keeping of public money.

Whatever may be the legal consequence of such language of the Supreme Court, the evidence proves that the subtreasury at Boston was doing a very large and miscellaneous business; that the daily balances, consisting of gold, bills, gold certificates,

coupons paid, and other assets, averaged over six millions of dollars; that tl provided for a limited number of clerks; that in order to transact business the was necessarily subdivided into departments, of which handling the cash wa that it was physically impossible for the assistant treasurer, consistent with l propriate duties, to take the cash into his own custody and control; that for l have personally and constantly interfered with the cash would necessarily have such confusion and division of responsibility as to have been intolerable; that sarily some clerk had the custody of the cash; that there was every reason to l Hartwell a suitable person for such custody, and that, as testified by Mr. Whitt chief clerk, Hartwell, necessarily had charge of the above cash, and "the fraud not have been prevented."

A special commission appointed to examine the subtreasury at Boston repo the Secretary of the Treasury, November 15, 1867, they were satisfied that " thing was correct, the books and accounts were found neatly and regularly ke all the business of the office appeared to be conducted with much fidelity and c ness"; and, again, that they cannot close their report "without again referring excellent management of the office."

The case of the State National Bank against the United States was thorough tested on each side by able counsel, and counsel on each side testify that thro there was no claim, suggestion, nor evidence that Mr. Chandler was in fault.

Hon. Hugh McCulloch, Secretary of the Treasury at the time of these occur writes, under date of November 23, A. D. 1878, to Mr. Chandler, among other t "I bear cheerful testimony to the admirable manner in which the business office of assistant treasurer at Boston was conducted when you were at the hea to your ability, uprightness, and carefulness as an officer. For the defalcati criminal conduct of Hartwell you were in no wise responsible. It would be cr justice to hold you and your sureties legally liable for it. You found Hart office when you were appointed. His ability was manifest, his integrity undo No laches have been attributed to you. On the contrary, the reports of the n in which your duties were performed, and the business of the office was cond reports made by the general and by special examiners, were always creditable and satisfactory to the department at Washington. I heartily unite to the peti Congress that an act be passed for the relief of yourself and sureties."

The result is, first, that there appears no question about Mr. Chandler's a uprightness, and carefulness; second, that the embezzlement was of funds Mr. Chandler's actual personal custody, but necessarily intrusted to the disb clerk.

Mr. Chandler himself is about seventy years of age, and possessed of but littl erty. Two of his sureties, now living, are insolvent, and of those who have die Gov. John A. Andrew, left an estate of about $32,000; and the estate of Mr. Edn another surety, is heavily indebted and insolvent. By reason of the provis Revised Statutes, sections 3466 to 3468, the administrators of the latter estate distribute it while there is even a technical claim of the United States. Esp on this account it is desirable that Congress should take promptly such act justice requires. There are a great many precedents for the relief prayed for i case, among which is the act to relieve Mr. Hillhouse, assistant treasurer a York, for the embezzlement of $185,000 revenue stamps by a subordinate (Statu Large, vol. 18, p. 532); and that to relieve Mr. Spinner from losses and embezzl of about $60,000 (vol. 17, p. 768).

The committee cannot distinguish these cases in principle from Mr. Chandler' and recommend the passage of the accompanying bill.

It appears from additional evidence filed since the making of the going report that the claims proved against the estate of the s J. Wiley Edmunds amount to $733,939.18, and that the assets c estate were inventoried at $342,023.57, a considerable part of whic never be realized; and there is now in the hands of the executors $150,000 for distribution, which the executors are not willing to di ute, with the pending liability of the estate by reason of said suret

Your committee have again carefully examined the facts in the and approve the foregoing report formerly made, and recommen passage of the bill herewith reported back to the Senate, relievin discharging the said Theophilus P. Chandler, late assistant tre of the United States at Boston, Mass., from all liabilities for the a the said Julius F. Hartwell, late disbursing clerk and cashier, a any moneys or funds of the United States loaned by said Hartw Mellen, Ward & Co.

ONGRESS, } SENATE. { REPORT
Session. } { No. 60.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 18, 1879.—Ordered to be printed.

AILEY, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill S. 903.]

ommittee on Post-Offices and Post-Roads, to whom were referred the wing bills: S. 44; S. 246; and S. 262; and also the memorial of vey Spalding, for the relief of certain postmasters and late postmas- in the States therein named, have had the same under consideration, ask leave to make the following report:

act of Congress passed June 22, 1854, directed the Postmaster- al to allow to deputy postmasters, in lieu of the compensation allowed, commissions on the postage collected at their respective , at varying rates, according to the sums collected.

act of July 1, 1864, instead of compensating them by commissions actual receipts, substituted a new system, by which the receipts) years preceding an adjustment of salaries were to be regarded basis, and, fixing the date of the act as the initial point, directed readjustment should be made every two years thereafter. But cial cases the Postmaster-General was authorized to make re- ments as much oftener as he should deem expedient, with the o, however, that changes in any salaries should not take effect he next quarter succeeding the order of the Postmaster-General ng the change.

act of 12th June, 1866, amended the last-recited act by adding a ion that when the quarterly returns of any postmaster of the third, , or fifth class should show that his salary was 10 per cent. less t would have been on the basis of commissions under the act of the Postmaster-General should review and adjust the salary.

xecuting the provisions of the act of July 1, 1864, so far as the r biennial adjustments were concerned, it was the practice of the Office Department, by an order issued from the office of the First ant Postmaster-General, and addressed to all postmasters, to e from the latter a sworn statement of the revenues of their offices he 1st of July to the 31st of December (inclusive) next preceding te of the proposed readjustment.

n these sworn statements the salary to be assigned to each officer timated and fixed, by an order bearing date June 1 of the current r one month prior to the date when the salary as adjusted was to fect.

ase of special readjustments the department rules required that

the attention of the Postmaster-General should be called to the case by direct application.

Under the act of 1864, and also of 1866, letters of appointment were issued to newly-appointed postmasters whose compensation was necessarily fixed at an arbitrary sum, by which they were notified that the compensation was fixed at a certain sum until the amount of business to be transacted and their receipts could be ascertained. They were instructed "at the end of each quarter to make and forward to the Third Assistant Postmaster-General a statement under oath of the total value of postage-stamps cancelled during the quarter and sold"; that "their salaries would be readjusted at the proper time by the Postmaster-General, on the basis of the amount of business done as shown by the quarterly statement above required."

In the period reaching from the year 1866 to the year 1872, when the whole system of compensation was modified, many new post-offices were established, and the rate of compensation was necessarily fixed, not upon the basis of receipts, but arbitrarily; in the same period the business of other offices belonging to the "third," "fourth," and "fifth" classes as increased.

The department, carrying out its practice and conforming to instructions given to the postmasters, did not readjust the salaries oftener than once in two years, except in cases to which its attention had been called by *official letters*, or by sworn returns made in accordance with its rules.

Postmasters generally, either through ignorance of the terms of the act of 1866, from inattention, from indifference, or because they were satisfied with the compensation they were receiving, did not generally make official application for a readjustment of salaries until the occurrence of the biennial period fixed by the act of 1864.

Their attention, or the attention of many of them, was at length called to their supposed right to increase of compensation by printed circular letters, scattered broadcast through the country by claim agents. Thereupon some who were in office, others who had resigned, or had been removed, either by letter written in person or through attorneys, made application for increase of salaries under the provisions of the act of 1866.

The Post-Office Department denied these claims, because—

First. The appropriations made by Congress for the expenses of the post-office service would not justify their payment.

Second. Because the applicants had not conformed to the rules and practice of the department in making these claims.

Third. Because the recognition of these claims would be an encouragement to the prosecution by officers of the government of stale claims and demands against it, not founded upon an expectation of payment at the time when services were rendered, but suggested by that large class of persons who earn a livelihood by investigating and vitalizing doubtful rights.

One or more actions were brought in the Court of Claims to compel payment of the sums alleged to be due. The causes at last reached the Supreme Court of the United States, and by that court it was decided that the judicial department of the government could not revise the action of the Postmaster-General, nor inquire into the grounds or correctness of his decisions under the act of 1866; these were not subjects of judicial cognizance.

Some of these claimants now make application to Congress for relief, and ask that the merits of their respective claims shall be investigated and settled.

ppears from a communication addressed to this committee by the
aster-General that in two States of the Union, viz, Iowa and Kan-
e persons who claim arrears of compensation under the acts referred
nber 746, and the sum total of their claims is $55,324. If only one-
ie number of claimants shall appear from each of the other States,
nly half this sum be claimed by them, the total number will be
and the sum $525,578.

withstanding the magnitude of this claim, your committee are of
n that the government should pay the entire amount if justly and
bly due. Yet it should pay no more. They beg leave to submit
here services were rendered with no expectation of compensation,
all events, to the extent now demanded, and where public officers
lerelict in the discharge of duty, or failed to conform to the reason-
irections of their superiors, and especially where they are prompted
ke demands not "*sua sponte*," but by the instigation of other and
sted persons, equity does not require a relaxation of the rules of
ettled by the highest judicial tribunal of the country.

they also submit that such of these claimants as made direct and
application to the Postmaster-General, or who complied with the
of the department by making sworn returns to the officers indi-
for readjustment of salaries, under the act of 1866, have a strong
. This class was not only obedient to the law, and to the orders
ir superior officers, but, by their action, have established that they
l to the act of Congress as a basis of a contract.

committee therefore recommend the indefinite postponement of
bills for special relief heretofore recited, and recommend the pass-
the bill now submitted.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 61.

IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1880.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 307.]

The Committee on Claims, to whom was referred bill S. 307, for the relief of L. C. Cantwell, have duly considered the same, and submit the following report:

In the third session of the Forty-fifth Congress, on February 10, 1879, the petition of claimant, with a bill for his relief, similar to the present one was introduced in the House of Representatives, and referred to the Committee of Claims, where no action was had. On February 17, 1879, a bill precisely similar to the present bill, with accompanying papers, was introduced in the Senate and referred to the Committee on Claims, which reported the said bill back to the Senate favorably without amendment, on February 19, 1879, and for want of time no action was had in the Senate. The said favorable report is as follows, to wit:

The claimant, L. C. Cantwell, is and for many years has been, the postmaster at Richmond, in Ray County, Missouri, and is a gentleman of high character and standing. Prior to June 1, 1878, he had built at his own expense a very comfortable building of frame-work for the post-office, and had fitted it up in first-rate style for the convenience of the business and patrons of the office. On June 1, 1878, about 4 p. m., a cyclone of most wonderfully destructive power swept over and through Richmond, destroying everything in its pathway, killing a large number of citizens, men, women, and children, and wounding many more. The post-office building was in its pathway and totally destroyed, together with its contents. The building was smashed into kindling wood, and the contents of the office, money-order funds, postage funds, stamps, stamped-envelopes, postal-cards, &c., were taken up by the cyclone and almost totally destroyed. Some letters were found over 13 miles distant from the office. The Post-Office Department has given Mr. Cantwell credit for the losses of stamps, stamped envelopes, &c., sustained. Mr. Cantwell at once made a full report of all losses to the Post-Office Department, and then made a detailed report under oath of the items of his losses, in response to a call from the department; then the department sent out to Richmond, Mo., a special agent, Warren P. Edgarton, to make a personal investigation and report, and who did make a full report. Upon the application of your committee, copies of all these letters, reports, and affidavits were furnished, with an accompanying letter from General Brady, Second Assistant Postmaster-General. From these it is found that Mr. Cantwell had on hand in said building $94.06 of money-order funds and $255 of postage funds, making $349.06 in all, and that of this amount $21.60 were recovered, leaving the sum of $327.46 as the balance of the money-order and postage funds totally lost and destroyed, and for which he has fully accounted to the Post-Office Department and paid in full, and which should be refunded to Mr. Cantwell.

The bill directs the payment of said sum to Mr. Cantwell, and your committee recommend the passage of the bill.

Your committee have again examined the bill and the accompanying papers, and find the foregoing report true and correct and fully sustained by the evidence and reports from the Post-Office Department. Your committee, therefore, adopt the foregoing report and report the same back to the Senate with the recommendation that it do pass.

IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1880.—Ordered to be printed.

OCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 417.]

ommittee on Claims, to which was referred the bill (S. 548) for the f of John C. Comfort, have duly considered the same, and submit the wing report:

s bill directs the Secretary of the Treasury to pay to the claimant, ractor for the building and erection of lodges and walls at the al cemeteries at Danville, Va., and other places," $26,914.93, "in tisfaction of all claims for losses and damages arising from the of the government in stopping, ordering, and directing the con- ion of said work." A similar bill was introduced in the House of sentatives November 12, 1877 (H. R. 1312), and referred to the ittee of Claims, and on May 31, 1878, reported favorably by said ttee, with a substitute (H. R. 5058). This substitute referred this to the Court of Claims, with this provision:

he said court is hereby authorized to hear and determine the same according iples of justice and equity, any statute of limitation to the contrary notwith- g.

report of the House committee accompanying said substitute follows:

ill proposes to pay to the claimant the sum of $26,914.93, in full satisfaction of ns for losses and damages arising from the action of the government in stop- ering, and directing the construction of certain lodges and walls at the national ies at Danville, Va., Memphis, Tenn., and other places, which the claimant ntracted to build for the government.

e months of October and December, 1872, claimant entered into three several ts with the Quartermaster-General of the United States, the first to build a dge each at the Danville, Glendale, and Seven Pines cemeteries, in the State of a, for each of which he was to receive $2,800; the second for constructing ilding brick walls, according to certain plans and specifications, around the l cemeteries at Beaufort and Florence, S. C., Memphis, Tenn., and Raleigh, N. which he was to receive $3.70 per linear foot of brick work; and, third, for g lodges at each of the following national cemeteries: Raleigh, N. C.; Mem- hattanooga, and Fort Donelson, Tenn.; and Logan's Cross-Roads and Lebanon, r each of which he was to receive $2,400.

es of the several contracts are filed with the evidence. It is alleged, and the ce shows, that the agents of the government changed the said contracts from time, as set forth in the letters filed with the evidence. These changes, it is l, greatly increased the work and the amount of material and time necessary to te the same. By the terms of the contracts the work was to be completed by a fixed nd it was the duty of the government or its agents to locate the sites of the walls lges promptly, to the end that the contractor might commence the work. But it ed that this was neglected, and this allegation is sustained by proof. An exten- time was granted, but other changes and delays were interposed; and the ot having been completed in the time prescribed, the claimant was declared by ernment to have forfeited his contract, after he had expended much time and la- made considerable progress with the work. The government proceeded to com- e work, having taken the claimant's material, time, and labor, and it is alleged was completed at extravagant and unnecessary cost. The claimant sets forth

the items of his loss—amounting, in the aggregate, to $25,914.93—and depositions and exhibits are filed tending to sustain them.

If the government, by a failure to comply with its obligations through the neglect or laches of its agents, placed it out of the power of the claimant to complete his contract within the prescribed time, or involved him in loss, it was not only a wrong to declare his contract forfeited, whereby he lost all his labor and material, but the government, if an individual, would have been liable in damages for all loss sustained by reason of its failure to comply with its part of the contract.

The committee are of opinion that the claimant has a just claim for compensation but the amount of it cannot be satisfactorily determined upon *ex parte* evidence. This can be best done by reference to the Court of Claims; and they report a substitute so referring it, and recommend that it do pass.

No further action was had in the House during the Forty-fifth Congress. Thus it clearly appears that this claim is one founded upon an expressed contract of the claimant with the Government of the United States, and the committee of the House were of opinion "that the claimant has a just claim for compensation, but the amount of it cannot be satisfactorily determined upon *ex parte* evidence," and say, "this can be best done by reference to the Court of Claims; and they report a substitute so referring it, and recommend that it do pass." No reason is given why the claimant had not already brought his action in the Court of Claims. The law provides, section 1059 Revised Statutes United States—

The Court of Claims shall have jurisdiction to hear and determine the following matters:

First. All claims founded upon any law of Congress, or upon any regulation of an executive department, or upon any contract, expressed or implied, with the Government of the United States, and all claims referred to it by either house of Congress.

SEC. 1060. All petitions and bills praying or providing for the satisfaction of private claims against the government, founded upon any act of Congress, or upon any regulation of an executive department, or upon any contract, expressed or implied, with the Government of the United States, shall, unless otherwise ordered by resolution of the house in which they are introduced, be transmitted by the Secretary of the Senate or the Clerk of the House of Representatives, with all the accompanying documents, to the Court of Claims.

SEC. 1069. Every claim against the United States cognizable by the Court of Claims shall be forever barred unless the petition, setting forth a statement thereof, is filed in the court or transmitted to it by the Secretary of the Senate or the Clerk of the House of Representatives, as provided by law, within six years after the claim first accrues.

With certain exceptions in favor of married women, minors, idiots, lunatics, insane persons, and persons beyond the seas.

The contracts in this case with the government were made in October and December, 1872, and as a matter of course the time for the completion of the work must have been several months later, and the right of action on the claim could not have accrued until some time in the year 1873; and when the bill was first introduced in the House, November 12, 1877, five years had not elapsed from the date of one or more of the contracts, and six years had certainly not elapsed from the date of any of the contracts. It was, therefore, manifest that the Court of Claims had full jurisdiction, and claimant had ample remedies open to him in the Court of Claims to obtain the relief he sought (if entitled to it) according to the laws of the land and the rules and practice of the courts of the land. The Constitution (article 3, section 1) provides: "The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may, from time to time, ordain and establish." The Congress did, on February 24, 1855, ordain and establish "the Court of Claims," and has ever since continued it in existence. The Constitution further provides (article 3, section 2):

The judicial power shall extend to all cases in law and equity arising under the Constitution, the laws of the United States, and treaties made or which shall be made

nder their authority * * * to controversies to which the United States shall be party.

From these provisions of the Constitution it is manifest that it was ever intended that Congress should be the tribunal for the settlement nd adjustment of controversies or cases in law or equity between pri- ate citizens and the United States, and that Congress should ordain ıd establish judicial tribunals for the settlement of all such cases. ongress has, in regard to the claimant's case, done its full duty, and tablished an inferior court, the Court of Claims, with full jurisdiction hear and determine his case. Furthermore, Congress has, as far as ıe Congress can establish a law for the guidance of a subsequent Con- ess, expressly decided not to hear or adjudicate such claims by the ıactment of section 1006 before quoted. Your committee desire to ıll special attention to this section and its requirements upon the Sec- tary of the Senate and the Clerk of the House of Representatives.

Your committee do not feel authorized, in view of the constitutional ıd legal provisions before quoted, to say to this claimant and other ke claimants, you have adequate remedy in the courts, but, if you ıoose, you can waive this remedy and present your claim to Congress, ıpported by *ex parte* evidence, and Congress will thus hear and deter- ine your claim. Even at the time the foregoing favorable report was ade in the House referring this claim to the Court of Claims, said ırt had full jurisdiction without the authority of the substitute recom- ıended by said committee, and such substitute was a mere sur- lusage, unless it was intended to change or modify the laws and the les and practice of the court existing at that time. But there is an lditional history to this case. On January 18, 1878, S. 548, an exact ıpy of the present bill was introduced in the Senate and referred to the ommittee on Claims, and on February 25, 1879, at a date when the Court 'Claims doubtless still had jurisdiction, the Committee on Claims sub- itted the following adverse report, to wit:

The bill authorizes the payment to John C. Comfort of the sum of $26,914.93, in ll satisfaction of all claims for losses and damages arising from the action of the vernment in stopping, ordering, and directing the construction of lodges and walls certain national cemeteries.

The evidence in support of this claim is certain affidavits, contracts, orders, and ıer documents, the originals of which are said to be in the possession of the House of presentatives, printed copies of which have been furnished us. From these it ap- ars that petitioner entered into three contracts in writing; one to build a brick lge at each of the cemeteries at Danville, Glendale, and Seven Pines; one to build vall and gates at each of four named cemeteries; one to build a brick lodge at each six named cemeteries. The price of the lodges named in the first contract was to $2,800 each, "the above price to be for the depth of the walls as shown on the ın, and if an additional depth shall be necessary, the party of the second part shall paid an additional sum therefor proportional to the contract price of the super- ucture." The wall was to be paid for at the rate of $3.70 per linear foot, the iron tes to be measured as wall; "if necessary to put in more foundation masonry than ıresented in the plan, it will be estimated and paid for at its fair value as compared th the price of superstructure." The lodges named in the third contract were to paid for at the rate of $2,400 each. The first contract stipulates that the construc- n and material used shall be under the supervision of an officer or agent designated the United States, and that payment is to be on the completion of each lodge and sentation of a certificate of the inspecting officer to that effect. The second and rd provide that no payment shall be made until the work has been inspected and epted; and that in case of failure to complete the work, or non-compliance with conditions and specifications, the United States may annul the agreement, the con- ctor forfeiting all pay that may be due, and the United States in that event may tract with other parties, and sue on the bond annexed to recover expenses and rges.

The petitioner claims that the United States changed these contracts from time to e, failed to locate the sites promptly, forfeited the contracts after he had pro- ssed with the work "in many instances almost to completion," went on to com-

plete the work at extravagant and unnecessary cost, and thus consumed his interest and deprived him of his profits, and also "surcharged him with almost $4,000, and have brought suit for said surcharge in the circuit court of the United States at Philadelphia."

A. H. Gardner deposes that he was at the national cemeteries at Cold Harbor, Seven Pines, Glendale, Fort Harrison, and Richmond, Virginia, in October and November, 1873, and was familiar with the work being done there by the contractor, and believes that by reason of the interference of the engineer in the employ of the Quartermaster's Department and of the extra work required, and by reason of the government finishing the work to the amount of $6,698.49, of which he gives some items, and that while there the engineer directed work and workmen wrong, which had to be reconstructed.

Thomas Owen and Daniel McKnight unite in an affidavit that each of them is an experienced builder; that they have examined the work of Comfort on the lodge and brick wall at Raleigh; and that at the date of the affidavit, March 12, 1873, the lodge is at least three-fourths completed, and one-third, perhaps half, of the work on the wall is done and completed. Regarding actual cost of labor and material, that they consider the material furnished good and the work well done; and the present perimeter of the cemetery is 2,230 feet.

There is also the affidavit of one Mayer, dated February 12, 1876, that he "furnished copper to Richmond, Va., for Comfort, to encase flag-staffs."

This makes petitioner's whole case, with the exception of certain letters to him from officers of the Quartermaster's Department, which show an extension of time given him to complete the works, an authority to him to do certain extra work, a declaration by the government that his contracts are forfeited, and a claim that several thousand dollars are due the United States by reason of his default.

If Comfort has anything due him, his remedy is in the Court of Claims. He shows no reason for not going there. Still less does he furnish us with evidence to sustain a claim against the government, or to warrant us in interfering with a suit already brought against him for alleged breach of his contracts. We recommend that the bill be indefinitely postponed.

Which report was adopted by the Senate, and the said bill indefinitely postponed. Rule 49 of the Senate reads as follows:

Whenever a claim is presented to the Senate and referred to a committee, and the committee report that the claim ought not to be allowed, and the report be adopted by the Senate, it shall not be in order to move to take the papers from the files for the purpose of referring them at a subsequent session unless the claimant shall present a memorial for that purpose, stating in what respect the committee have erred in their report, or that new evidence has been discovered since the report, and setting forth the new evidence in the memorial.

The intention of this rule was evidently to prevent the constant reference of claims to any committee of the Senate when a committee of the Senate has reported adversely to such claim, and such report has been adopted by the Senate, unless good grounds shall be assigned for it in a memorial, stating in what respect the committee erred upon the facts previously before it, or that new evidence has been discovered, and setting forth the new evidence. It is true that this case may not technically come within the provisions of this rule, for the claimant simply introduced his bill, precisely similar to the former bill reported adversely and indefinitely postponed, but did not "move to take the papers from the files for the purpose of referring them," as the papers were originally filed in the House of Representatives and are there yet, and never were on the files of the Senate; yet, his action in reintroducing the same bill after it had at one Congress been voted upon and indefinitely postponed, is against the true spirit and object of said rule. In consequence of this technical evasion of said rule, your committee have not appealed to said rule as decisive of this case, but have reconsidered the case and have decided the same adversely to the claimant, and therefore recommend that the claim of John C. Comfort presented to the Senate in said bill, and referred to your committee, ought not to be allowed, and therefore ask that their report be adopted by the Senate, and the said bill be indefinitely postponed.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 63.

IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1880.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 212.]

The Committee on Claims, to whom was referred Senate bill No. 212, entitled "A bill for the relief of John M. Dorsey and William F. Shepard," have considered the same, and submit the following report thereon:

This bill has been three times favorably reported in the Senate and once in the House of Representatives. The bill passed the Senate February 17, 1876. No adverse report has ever been made upon it.

We adopt the report of Mr. Pratt, made to the Senate from this committee February 11, 1875, and recommend the passage of the bill.

[Senate Report No. 649, Forty-third Congress, second session.]

FEBRUARY 11, 1875.—Ordered to be printed.

Mr. PRATT submitted the following report, to accompany bill S. 1073:

The Committee on Claims, to whom was referred the bill (S. 1073) for the relief of John M. Dorsey and William Shepard, submit the following report:

The bill directs the payment to John M. Dorsey of $9,088, and to William Shepard $3,788, in full settlement for beef and supplies furnished the troops by Wallace, Dorsey & Shepard and by S. B. Wallace, in quelling the Indian disturbances in the Territory of Utah, now the State of Nevada, in the year 1860.

The bill is based on the petition of Dorsey and Shepard to Congress, which is sworn to by Dorsey, and is substantially as follows in its statements: That in the spring of 1860 they were engaged in business in said Territory, when great alarm existed among the inhabitants of the western portions of Utah, in consequence of the depredations of the Pi-Ute Indians; that an irregular force of about one hundred of the best citizens was organized, and armed with such weapons as they could procure, and went out from Virginia and Carson Cities to chastise the Indians; that the expedition fell into ambush, and about sixty of the citizens, including Major Ormsby, their commander, were killed, and the others dispersed; that great excitement and alarm followed among the citizens, and it was feared the neighboring towns would be attacked, the Indians having assembled in large force. There were no troops, arms, or government nearer than Salt Lake, five or six hundred miles distant. Under these circumstances the governor of California, and the United States officer in command of the Department of the Pacific, sent forward to Virginia City arms and ammunition in charge of proper officers. Two or three hundred volunteers also came along with the United States troops. The citizens of Virginia City and its vicinity united with these volunteers and regular troops and organized a regiment, and selected Col. John C. Hays to take command. The troops, thus organized and commanded, marched against the Indians, and, after some severe fighting, conquered a peace.

The memorial further states that upon the organization of this force it was without quartermaster or commissary supplies, and in order to obtain them Richard N. Snowden was appointed commissary, and as such entered into a verbal contract with said Wallace and the petitioners to furnish certain supplies; that, in conformity therewith,

the three named furnished them to the amount of $12,868, which was certified to, a vouchers therefor issued by said Snowden as commissary. One for the sum of $1, was issued to S. B. Wallace; one to John M. Dorsey, S. B. Wallace, and William Sh ard for $5,050; and a third one to the three last-named parties for $6,190; that W lace died in 1862, but before his death assigned to Dorsey all his right, title, and in est in all of the certified accounts; that Dorsey is the just owner of the first-n tioned account (that for $1,528) and of two-thirds of the other two, amounting in aggregate to $9,088, and that Shepard is the owner of one-third of the last two, amo ing to $3,780. The petitioners close by saying they furnished these supplies for purposes stated in good faith, believing that they would be paid in a short time, that the prices charged were low for the time, places, and circumstances

At the suggestion of the subcommittee having this bill in charge, Mr. Dorsey appended an affidavit to the memorial, and in this he swears that he is one of claimants therein; that he knows all the statements made therein are true of his knowledge; that the supplies were actually furnished as stated; that the amo claimed is justly due, the charges reasonable, and that no part thereof has been him or any of the other parties; that the amount of money subscribed by the citi of Virginia City and vicinity had been exhausted, and this fact was the reason necessity for Colonel Hays and Colonel Snowden making the verbal contract claimants to furnish said supplies, and had they not, in conjunction with Jordan McPike, furnished the necessary supplies, the expedition must have failed.

Mr. Dorsey further states in explanation of the long delay in bringing the claim fore Congress that it had been duly filed in the War Department, which had fin ruled that there was no law which authorized its payment; that it was then put the hands of agents, who did nothing; that neither of the claimants possessed pecuniary means to come to Washington; that about the year 1865 the triplic vouchers were placed in the hands of Hon. D. R. Ashley, then a member of Cong from Nevada, to present to Congress, but he lost all the papers; that circumsta and sickness in his family prevented him from coming to Washington until recen and from employing agents. He closes by saying much of his evidence is among papers in the claim of McPike, which was allowed at the last session of Congress has been paid.

The following papers are furnished by the War Department in regard to these clai and sufficiently explain themselves:

The United States of America to S. B. Wallace, Dr.

To supplies furnished the expedition under command of Col. Jack Hays against Pi-Ute Indians, in the Territory of Utah, as follows:

To 600 pounds of flour, at 70 cents	$420
To 500 pounds sugar, at 60 cents	300
To 400 pounds barley, at 55 cents	220
To 125 pounds California bacon, at 80 cents	100
To 100 pounds Java coffee, at 65 cents	65
To 510 pounds fresh beef, at 30 cents	153
To twenty-two (22) days' service of the pack-mules, at $3.50 per day	231
To 3 camp-kettles, at $3	9
To 3 frying pans, at $2	6
To 2 dozen tin cups, at $6	12
To 2 dozen tin plates, at $3	6
To 1 dozen sheath knives, at $6	6
Total	1,528

I certify, on honor, that the above amount of provisions were furnished the exp tion under command of Col. Jack Hays, against the Pi-Ute Indians in the Territor Utah, by S. B. Wallace; that the prices charged therefor are just and reasonable, that the same were received by me, and were necessary for public service.

Dated at Pyramid Lake, June 3, 1860.

RICHARD A. SNOWDEN,
Commissary Utah Volunteer

The United States of America to John M. Dorsey, S. B. Wallace, and William Shepeard,

To supplies furnished the expedition under command of Col. Jack Hays, against Pi-Ute Indians, in the Territory of Utah, as follows:

To 800 pounds bacon, at 80 cents	$64
To 600 pounds coffee, at 45 cents	27
To 480 pounds soda-crackers, at 80 cents	38

To 30 gallons sirup, at $5	150 00
To 10 gallons pickles, at $5	50 00
To 200 pounds table-salt, at 80 cents	160 00
To 400 pounds rice, at 45 cents	180 00
To 1,000 pounds Orleans sugar, at 51 cents	510 00
To 400 pounds beans, at 45 cents	180 00
To 200 pounds soap, at 50 cents	100 00
To 5,000 pounds flour, at 45 cents	2,250 00
To 400 pounds barley, at 44 cents	176 00
Total	5,050 00

I certify, on honor, that the above amount of provisions was actually furnished the expedition under command of Col. Jack Hays, against the Pi-Ute Indians in Utah Territory; that the prices charged therefor by Dorsey, Wallace, and Shepard are just and reasonable, and that the same were necessary for the public service.

Dated at Carson River, June 10, 1860.

RICHARD A. SNOWDEN,
Commissary Utah Volunteers.

he United States of America to Jno. M. Dorsey, S. B. Wallace, and William Shepard, Dr.

o supplies furnished the expedition under command of Col. Jack Hays against the Pi-Ute Indians in the Territory of Utah, as follows:

o 3,500 pounds of flour, at 70 cents	$2,450 00
o 400 pounds barley, at 55 cents	220 00
o 1,100 pounds sugar, at 60 cents	660 00
o 600 pounds Java coffee, at 70 cents	420 00
o 10 gallons sirup, at $7	70 00
o 20 sacks (5 pounds each) table-salt, at $3	60 00
o 7,700 pounds fresh beef, at 30 cents	2,310 00
Total	6,190 00

I certify, on honor, that the above amount of provisions was actually furnished the xpedition under command of Col. Jack Hays against the Pi-Ute Indians in the Terri-ory of Utah, that the prices charged therefor by Dorsey, Wallace, and Shepard are ist and reasonable, and that the same were necessary for public service.

Dated at Pyramid Lake, June 3, 1860.

RICH'D A. SNOWDEN,
Commissary Utah Volunteers.

WAR DEPARTMENT, *December* 10, 1869.

The Secretary of War, in compliance with the request of the Committee on Claims f the United States Senate, dated April 1, 1869, has the honor to furnish all the in-ormation in possession of the War Department relative to the war against the Pah-Utah Indians, in the year 1860, and to return to said committee the list of claims gainst the United States arising out of said war.

WM. W. BELKNAP,
Secretary of War.

List of claims for the war against the Pah-Utah Indians, 1862.

o. 1.	S. B. Wallace	$1,528 00
2.	Dorsey, Wallace & Sheppard	6,190 00
3.	Dorsey, Wallace & Sheppard	5,150 00
4.	Jordan & McPike	3,093 50
5.	Jordan & McPike	9,900 00
6.	Jordan & McPike	5,040 00
7.	Jordan & McPike	1,440 00
8.	John Jordan	360 00
9.	C. S. Strong, treasurer, &c	1,105 00
10.	C. S. Strong, treasurer, &c	1,000 00
11.	Jesse Mayhew	200 00
		35,006 50

I certify that the foregoing are correct copies of papers on file with settlement No. 11, June 19, 1874, in favor of John McPike.

A. M. GANGEWER,
Chief Clerk, Third Auditor's Office.

From the foregoing papers it will be seen that Richard A. Snowden, the commissary of the Utah volunteers, certifies that S. B. Wallace furnished the expedition with supplies to the amount of $1,528; that the prices charged were just and reasonable, and that the supplies were received by him and were necessary for public service; and that in like manner Dorsey, Wallace & Shepard furnished the supplies mentioned in the two other vouchers—one calling for $5,050, the other for $6,190.

The list of claims seems to be a summary of all the supplies furnished for the expedition, as well by the parties now before Congress as others not now here, amounting in the aggregate to $35,006.50.

W. T. Shepard made an affidavit, on 10th December last, that he, associated with John M. Dorsey and S. S. Wallace, furnished, in the year 1860, certain supplies for the subsistence of the troops in Utah Territory during that year, who, under the command of Col. John C. Hays, were engaged in suppressing Indian hostilities, for which supplies he and the said Dorsey were about to apply to Congress for payment, and that in the year 1861, Wallace, for a valuable consideration paid to him by Dorsey, sold, assigned, and transferred by written assignment his equal one-third interest in and to said claim and demand to the said Dorsey, who was the legal owner and holder thereof, and entitled to receive Wallace's share.

This written assignment is not produced, but Dorsey verbally alleges it has been lost, that Wallace died insolvent, and no administrator was ever appointed to administer upon his estate.

It appears by this affidavit that there is an error in the bill in giving the names of Wallace and Shepard; that Wallace's name was S. S. Wallace, and Shepeard's, W. F. Shepard.

John C. Hays makes affidavit that he was commander of the volunteer force at the Indian outbreak which occurred in 1860, and that he believes that the said Dorsey, Shepard & Wallace faithfully performed the verbal contract made with him as commander and Richard M. Snowden as commissary, and that they furnished flour, bacon, salt, &c., for the use of the volunteers under his command, and that they should have been paid long ago.

A. E. Shiras, assistant commissary-general of subsistence, writes to J. M. Latta, attorney at Washington, under date of April 1, 1867, in relation to these claims, which had been filed in the Commissary-General's Office, as follows:

"No records in this office or in that of the Adjutant-General show any authorization by the government of the regiment or command for which the stores appear to have been procured, or that any law has ever been enacted which would authorize the payment of the accounts."

These references exhaust all that is before the committee in this case in the way of papers.

It appears, however, that on June 17, 1874, an act was passed directing the Secretary of the Treasury to pay the sum of $19,473.50 to John M. McPike, in full settlement for beef and supplies furnished the troops by Jordan & McPike in quelling the Indian disturbances in the Territory of Utah, now the State of Nevada, in 1860. (See United States Statutes, page 40 of private acts, chapter 296.)

There appears to the committee no good reason to doubt the existence of the disturbances as alleged in the memorial, and the necessity for the supplies furnished the forces engaged in the expedition against the Indians. As to the amount, kind, and value of these supplies there is no evidence, leaving out of question the affidavit of Dorsey, beyond the certificate of the gentleman who exercised the functions of commissary on the occasion. His affidavit is not furnished, nor is any reason given for its absence. The affidavit of Colonel Hays, while it refers to these bills, does not state amounts or prices. Nor does the affidavit of Shepard. These, however, are the identical accounts filed in the War Department, and Dorsey swears to their correctness, to his ownership of Wallace's portion, and that no part of the account has been paid.

Senate Report No. 155, made in the case of Jordan & McPike, has been shown to the committee, which was the basis of the private act above quoted. That case differs from this in the fact that there was a written contract made between Jordan and McPike of the one part, and Snowden of the other, fixing the price of the beef to be furnished. The affidavit of Colonel Hays furnished in that case was more full than in this, showing the urgency of the occasion for organizing this military force, and the economy with which the expedition was concluded. He says the volunteers neither asked nor received any pay.

The good character and business standing of Dorsey are indorsed by one of the Senators from Nevada.

The committee have come to the conclusion to recommend the passage of the bill on the strength of the evidence as above set forth, and because of the former action of Congress in allowing a similar claim made by Jordan & McPike.

O

6TH CONGRESS, 2d Session. | SENATE. | REPORT No. 64.

IN THE SENATE OF THE UNITED STATES.

JANUARY 7, 1880.—Ordered to be printed.

Mr. HARRIS, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 24.]

The Committee on Claims, to which was referred the bill (S. 24) for he relief of John S. Logan, and accompanying petition and papers of John S. Logan and W. L. Shadwick, having carefully examined the ame, adopt the following report, which was submitted to the Senate at he first session of the Forty-fourth Congress:

In 1861 Col. John Edwards raised a force in Southern Iowa and Northern Missouri, of some twelve or fourteen hundred men, reported to General Pope, then in command n Missouri, the object of said force being to protect the Iowa southern border, to aid n keeping open the Hannibal and Saint Joe Railroad, and for the public service generally. This force remained in the field during the months of August, September, or October of that year, a part being stationed at Saint Joe and a part at Chillicothe, n said State of Missouri. This force was organized and called into the service to meet a recognized emergency, and the men were without clothing except such as they had on their persons at the time of enlistment. They were even destitute of shoes, clothing, or supplies, became dissatisfied, somewhat mutinous, and threatened to abandon he service. The officers were without funds or means to supply or meet their wants and demands. To meet the emergency, they borrowed from the Western Bank of Missouri $1,000, and gave therefor an order on the Iowa State treasury. This money was all used for clothing and supplies to these troops, the amount thus paid for clothing being subsequently deducted from the pay of each officer and soldier. The demand (the bank having gone into liquidation) was afterwards purchased by these petitioners.

Demand was made upon the State of Iowa, and payment refused, because vouchers were not presented showing the disposition made of the money; it being required that, as there was no authority technically to borrow this money, the State would not pay, except upon proper vouchers showing how and to whom this money was paid. It is understood that all the other expenses attending the raising and taking care of this independent force have been paid by the State and reimbursed by the government. But this claim has been rejected for the reasons stated. It also appears that Colonel Edwards and his commissary, who also acted as quartermaster, soon after this occurrence, were called to other fields of active service, and that it was some years before their whereabouts could be ascertained. Finally statements were obtained from them, which are found in the record, fully supporting the findings and statements above set out. The claim has never been paid either by the State of Iowa or the United States.

It seems to your committee that this is a just and meritorious claim. We concede that it would have been more satisfactory to your committee if vouchers had been presented, showing that this money was used in good faith, and actually for the benefit of the troops. But this is next to impossible at this late day. And especially would it be a great hardship to require this of the present claimants. Then, too, it will be seen at once that no one would expect that the vouchers, if presented, would show that this identical thousand dollars was applied to their payment.

We admit that the delay has been great; but the circumstances seem to be exceptional, and we therefore recommend the allowance of the claim ($1,000).

The committee recommends that the bill be amended by inserting fter the word Kentucky, in the fourth line, the words "and W. L. hadwick"; and that, when so amended, the bill pass.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 65.

IN THE SENATE OF THE UNITED STATES.

JANUARY 8, 1880.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill S. 762.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 762) for the relief of Josiah H. Pillsbury, have considered the same, and report:

That said Pillsbury, on the 28th day of June, 1877, was, and yet is, postmaster at Manhattan, Riley County, Kansas; that on the night of that day the post-office at Manhattan was entered by burglars, the safe therein, in which were kept the moneys and stamps of the Post-Office Department, and registered letters, was broken open and robbed of money-order funds, postal funds, and registered letters, containing money to the amount of about $476.96, which amount the postmaster has since made good to the department.

The special agent sent by the Post-Office Department to investigate the matter reports, among other things, as follows:

> The post-office is kept in a frame building in the principal business street, and was entered by the robbers through a side window near the back part of the room in which the office is kept. The safe used by the postmaster is one of Hall's patent combination four-tumbler locks, and weighs about 700 pounds, and was entered by means of a sledge-hammer weighing 10¾ pounds. * * * Mr. Pillsbury, the postmaster, is considered by the citizens of Manhattan as a very worthy and careful postmaster, and I am satisfied that he took the same care of the government property that he did of his own.

It also appears that the safe broken open and robbed was furnished by the postmaster at his own expense, and was such an one as the government furnishes to second-class offices.

Mr. Pillsbury, immediately after the robbery, gave notice thereof to the proper officer of the department, and promptly paid over the amount of money stolen.

The post-office at Manhattan is of the third class; the population of the town is about twelve hundred; and it contains two private banks, but no national bank.

In his report the special agent says:

> While Mr. Pillsbury took every precaution, under the circumstances, to secure the door and window of said post-office, yet I am of the opinion it was very unsafe to risk $500 in money and valuable letters, not knowing the value of contents, in a safe which was not burglar-proof, in a frame building which was not occupied by any one at night. Mr. Pillsbury being the custodian of public money and government property, and being paid for the care of said money and property, did not show any desire to shirk the responsibility resting upon him, but paid the losses reported herein.

The same report shows that of the amount stolen $288.40 was mon order funds, $155 postal funds in money, and $35.55 contents of reg tered letters.

Your committee are of the opinion that, upon these facts, the po master should be reimbursed the amount of money-order funds and t amount contained in registered letters, and that he should not be re bursed the amount of postal funds. They therefore recommend th the bill be passed.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 66.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 139.]

The Committee on Pensions having duly examined Senate bill 139, granting a pension to Henry A. Armstrong, late surgeon Second Regiment New York Heavy Artillery, together with the papers filed in the case, find that the applicant's claim was rejected by the Commissioner of Pensions because of insufficient evidence; that the disabilities were incurred while in the service and in the line of duty. An appeal having been taken from this decision, it was, after examination, affirmed by the Secretary of the Interior, February, 1874.

The claimant alleges hernia, produced by injury on horseback, in 1862, during a march, and loss of left eye with disease of the right, originating from arduous and exhaustive labor in hospitals, in 1862. He appears to have entered the service of the United States in 1861 as surgeon, and resigned November 9, 1863. About a week afterward, to wit, November 11, 1863, he became a contract surgeon, and served in this capacity until January 10, 1866; made application for a pension in 1871, which was rejected at the time and for the reasons above stated.

That the alleged disabilities exist is proven by the certificate of the examining surgeon, and that his vision was good and health unimpaired in 1861 is established by evidence of Lieutenant Lacy and Hospital Steward Pinney, who were on duty with him, and also by Drs. Wales and Stanton, the latter expressing the opinion that the affection of the eyes was probably due to excessive labors in the hospital. Assistant Surgeon Wisner, who served with him, believes that the disease was thus induced.

The principal difficulty arises from the fact that the claimant, subsequent to the alleged disability, re-entered the service as contract surgeon, and served until after the close of the war in that capacity.

To this objection it is replied that no preliminary examination was required as a condition precedent to entering the service as a contract surgeon, which is sustained by the statements of Assistant Sureon-Generals Billings and Crane, and Surgeons Slimer and Thompson, who also believe that the service was performed under circumstances and conditions entirely compatible with the existence of the alleged disability.

As the fact seems conclusively established that the diseased condition of the eyes originated in the service and in the line of duty, the committee recommend the passage of the bill with an amendment.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 67.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

Mr. RANDOLPH, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. R. 8.]

The Committee on Military Affairs, to whom was referred the resolution (S. R. 8) "correcting the military record of Wickliffe Cooper, deceased, late major of Seventh Cavalry, brevet colonel United States Army," have had the same under consideration and submit the following report:

The Committee on Military Affairs of the United States Senate, Forty-fifth Congress, third session, after an investigation of the facts relating to the case, reported as follows:

The Committee on Military Affairs, to whom was referred Senate Resolution No. 65, "correcting the military record of Wickliffe Cooper, deceased, late major of Seventh Cavalry, brevet colonel United States Army," report:

This is a bill which directs that so much of the military record of this officer which shows he committed suicide on June 8, 1867, be corrected so as to show that he "died by hands of person or persons unknown." The record shows that this officer was found dead in his tent, on Medicine Lake Creek, near Fort McPherson, Nebraska, on or about the 8th of June, 1867, and it was supposed he committed suicide while in a fit of delirium tremens. His widow applied to Congress for a special pension, which was first reported adversely by the Senate Committee on Pensions, upon the ground that a pension under such circumstances was unwarranted by the letter and spirit of the pension laws. This adverse action was based upon the record of the War Department, and was reported January 14, 1875, second session, Forty-third Congress.

On February 12, 1875, same session, the Committee on Pensions, having considered additional evidence, reversed their former decision and reported favorably upon the pension bill (H. R. 3713), upon the ground, as the committee say, "that the allegation of the manner in which Major Cooper came to his death is unfounded. The habits of his life, the location of the wound of which he died, and all the attendant circumstances are inconsistent with the theory of suicide." The record shows that the bill pensioning the widow of this officer thereupon became a law, approved March 3, 1875 (see chapter 241, p. 658, vol. 18, part 3, Forty-third Congress, second session, 1873–'75). The following are the two reports of the Committee on Pensions alluded to:

"[S. Report No. 522, Forty-third Congress, second session.]

"Mr. INGALLS submitted the following report, to accompany bill H. R. 3713:

"*The Committee on Pensions, to whom was referred the bill (H. R. 3713) granting a pension to Sarah S. Cooper, submit the following report:*

"The pensioner, Sarah S. Cooper, is the widow of Wickliffe Cooper. When the late rebellion broke out, her husband entered the United States service as a private, in 1861; was soon made lieutenant; afterward promoted to the colonelcy of the Fourth Regiment Kentucky Veteran Cavalry, in which capacity he served till the close of the war in 1865.

"Colonel Cooper was a brave and gallant officer, a good soldier, prompt and faithful to duty, and rendered his country important service during the late war. His commanding officers speak his praise in the highest terms. He was afterward made brevet colonel in the Regular Army on account of his meritorious services.

"In 1866 Colonel Cooper was appointed major of the Seventh United States Cavalry, in which position he served with his regiment on the western frontier till June 8, 1867, when he perished by his own hand. The evidence from the War Department shows that he committed suicide by shooting himself through the head with a revolver, while in a fit of delirium tremens, on the evening of the 8th of June, 1867, while encamped on Medicine Lake Creek, about fifty miles southeast of Fort McPherson, Nebraska Territory.

"The committee, believing that under no interpretation of the pension laws can this be brought either within their letter or their spirit, recommend the indefinite postponement of the bill.

"[S. Report No. 653, Forty-third Congress, second session.]

"Mr. INGALLS submitted the following report, to accompany bill H. R. 3713:

"*The Committee on Pensions, to whom was referred the bill H. R. 3713, having had the same under consideration, submit the following report:*

"Upon the 14th January, 1875, this bill was reported adversely and indefinitely postponed. On the 21st of the same month this action was reconsidered by a vote of the Senate, and the bill recommitted for further action.

"The claim was rejected upon the ground that Major Cooper died from the effects of a wound inflicted by his own hand during an attack of delirium tremens.

"Additional evidence has been submitted; and, upon a review of all the testimony, the committee have reached the conclusion that the allegation of the manner in which Major Cooper came to his death is unfounded. The habits of his life, the location of the wound of which he died, and all the attendant circumstances are inconsistent with the theory of suicide.

"Without presenting in detail the entire evidence, the committee reverse their previous action, and recommend, unanimously, that the bill do pass."

Inasmuch as a committee of the Senate has already examined all the facts involved in this case, and reported that this officer did not commit suicide, as stated in his military record, your committee can see no objection to the passage of this joint resolution. It only removes what is considered a stigma, and takes away a load of grief naturally entailed upon his widow and family.

Your committee therefore recommend passage of the joint resolution.

Your committee adopt this report and recommend the passage of the joint resolution.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 68.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

Mr. RANDOLPH, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 332.]

The Committee on Military Affairs, to whom was referred the bill (S. 332) "authorizing the appointment of William English to a second lieutenancy in the Army," have had the same under consideration, and submit the following report:

The facts in this case were called to the attention of Congress by the Secretary of War, in a letter dated War Department, Washington City, December 12, 1878, upon which the Committee on Military Affairs of the Senate made the following report, which is adopted by your committee:

The Committee on Military Affairs, to whom was referred the letter from the Secretary of War, recommending such legislation as will authorize the President to appoint William English, late a cadet at the Military Academy, a second lieutenant in the Army, have had the same under consideration, and submit the following report:

The Secretary of War submits to Congress, in his letter addressed to the President of the Senate, that Cadet English was appointed to and entered the Military Academy in June, 1875, remaining there a year, when he was found deficient in mathematics, and discharged in June, 1876. The Secretary states, however, that Cadet English's failure occurred through no fault of his own, but was owing to absence from the Academy on account of domestic afflictions, which caused him to fall behind his class; also, that about the time of his discharge he received the unanimous recommendation of the members of his class that he be appointed in the Army before their graduation.

It further appears, according to the letter of the Secretary, that in consideration of the fact, and in view of the long and faithful services of Cadet English's father, the late Lieut. Col. T. C. English, Second Infantry, who served for more than twenty-four years as a commissioned officer in the Army, the President, on January 3, 1877, directed his appointment in the Army, which would have been made but for the fact that the law which forbids the appointment of a discharged cadet to the Army before the graduation of his class, prevented it. Another legal obstacle since intervening by act of June 18, 1878, made it impossible for Cadet English to be appointed to a second lieutenancy until the graduating class and the non-commissioned officers eligible thereto were provided for. It becomes necessary, therefore, to permit this appointment, that an enabling act be passed. The following is the Secretary's letter:

"WAR DEPARTMENT,
"*Washington City, December 12, 1878.*

"The Secretary of War has the honor to bring to the attention of Congress the following facts in the case of William English, late cadet at the Military Academy, and to recommend that such legislation be passed as will enable the President to appoint him a second lieutenant in the Army.

"Cadet English was appointed to and entered the Military Academy in June, 1875. He remained at the Academy one year, when he was found deficient in mathematics,

and was discharged in June, 1876. His failure, however, appears to have been no fault of his own, but owing to his absence from the Academy on account o tic afflictions, which caused him to fall behind his class.

"About the time of his discharge he received the unanimous recommendatio members of his class that he be appointed in the Army before their graduatio

"In view of this, and in consideration of the long, faithful, and meritorion of his father, the late Lieut Col. T. C. English, Second Infantry—who served t that twenty-four years as a commissioned officer—the President, on January was pleased to direct his appointment in the Army. This appointment wou been made had it not been for the fact that the law which forbids the appoint a discharged cadet to the Army before the graduation of his class, prevented i legal obstacle has been further added to by legislation of Congress on the June, 1878, which renders it impossible for him to be appointed as second lie in the Army from civil life until after the graduating class from the Military A and the non-commissioned officers who may be eligible shall have been provi

"It becomes necessary, therefore, in order to do justice in this case, tha shall be passed enabling the President to nominate him to the Senate for the he seeks.

"Respectfully submitted.

"GEO. W. McCRAR
"*Secretary o*

"The PRESIDENT
"*United States Senate.*"

In view of the recommendations of the honorable Secretary of War, and the fact that the President desires to make this appointment in recognition of the services for a long period of the late Lieutenant-Colonel English, Second (the father of Cadet English), together with the statement of the Secretary t failure of young English to pass the examination in mathematics occurred thr fault of his own, but was owing to domestic affliction which caused his abse that the members of his class magnanimously waived their rights in his be committee report the accompanying bill and recommend its passage.

Your committee recommend the passage of the bill.

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 69.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

ANDOLPH, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 188.]

Committee on Military Affairs, to whom was referred the bill (S. 188) recting the military muster-in of James G. Howard, late captain Com- ny E, Forty-ninth Kentucky Volunteers, have had the same under con- leration, and submit the following report:

appears from the letter of the Adjutant-General of the Army to the etary of War, which is appended to this report, that Captain How- was commissioned captain of Company E, Forty-ninth Kentucky nteers, by the governor of Kentucky, to date from August 27, 1863, that his company was not mustered into the United States service until ember 23, 1863. Captain Howard's commission dates from the time ompany was mustered into the service. He asks that it be corrected s to date from the time he was commissioned by the governor of tucky.

nder the provisions of the War Department General Orders No. 61, 861, a captain is only entitled to be mustered in on the completion nuster-in of his company. The records of the War Department show the Forty-ninth Kentucky Infantry Volunteers was mustered into United States service on the 19th of September, 1863, and that Cap- Howard's commission bears a corresponding date. Prior to this there is no evidence that Captain Howard performed any service er than mustering his company. Captain Howard died October 18, 3.

view of the facts presented, the committee ask to be discharged from further consideration of the bill, and recommend that the same be finitely postponed.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, January 22, 1879.

R: I have the honor to return herewith the communication of the Hon. George E. ker, United States Senate, of Committee on Military Affairs, United States Senate, d the 16th instant, inclosing S. 1600, bill for the relief of Capt. James G. Howard, of the Forty-ninth Regiment Kentucky Infantry Volunteers, with a request for mation from the records of this office relative to his recognition as such from August 863, and to report that under the provisions of War Department General Orders 61, of 1861, a captain is only entitled to be mustered in on the completion by muster- his company.

e records of this office show that Company E, Forty-ninth Regiment Kentucky ntry Volunteers, was not completed by muster-in until September 19, 1863, from

which date James G. Howard was mustered in and recognized as its captain, and prior to which date there is no evidence of service rendered by him other than recruiting the company. The records further show that the said Captain Howard died October 18, 1863, in London, Ky.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

To the Hon. Secretary of War.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 70.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

Mr. GROOME, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 46.]

The Committee on Claims, to whom was referred the bill (S. 46) for the relief of Frank Rinquet, and the accompanying papers, have considered the same and report:

That the claim which the bill is intended to pay is based upon the alleged burning and destruction in July, 1878, by hostile Indians raiding through Umatilla County, Oregon, of property said to belong to the claimant; that said property consisted of a dwelling-house and outbuildings, known as Cayuse Station, located on the overland stage-route and at the foot of the Blue Mountains, and of certain articles of personal property there situated.

There is no evidence of any of the facts upon which the claim is based, except the affidavit of the claimant, and an affidavit of a person in the claimant's employ that he verily believes that the claimant's statement is true.

We deem such evidence wholly insufficient, and recommend that the bill be indefinitely postponed.

O

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 71.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

r. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 159.]

he Committee on Military Affairs, to whom was referred the bill (S. 159) to provide for the sale of certain portions of the Fort Leavenworth military reservation, report as follows:

This bill was submitted by the committee to the Secretary of War for ich information and suggestions as might aid the committee.

The committee have been furnished with the following through the Var Department:

General Pope, commanding the Department of Missouri, within which 'ort Leavenworth is situate, says (under date February 6, 1878):

The portion of the reservation specified in the bill and accompanying map can be pared from this military reservation without injury to the public interests, provided he money value of it can be applied to improvements elsewhere on the reservation, pecially for inclosing the entire reservation, so as to protect what is left from any arer approaches than those which will be occasioned by the occupation of the indiated portion for railroad uses.

Unless the proceeds of the sale can be thus used, he opposes the sale, nd, as the committee understand him, on the ground that, if the remainder of the reservation is left uninclosed, it will be liable to enroachment, and that this can be obviated by applying a portion of he proceeds to the erection of inclosure around the remaining portion, nd that the residue can be made of importance to the post in the erection of additional permanent improvements; and in this connection the ommittee call attention to the following extract from the report of eneral Pope, October 3, 1879, to be found on page 84 of the Report of he General of the Army for the year 1879, to wit:

At Fort Leavenworth new barracks are needed, and have been needed for a long ime. The old frame barracks built here many years ago are rotting and becoming angerous to live in, as well as being a very imperfect shelter for troops. They will ot stand much longer, and should be replaced by substantial buildings of brick. I sk $30,000 for this purpose.

General Sherman expresses no direct opinion on this bill, but says enerally:

The experience of Saint Louis arsenal and Fort Gratiot would seem to show that hen railroads once get a hold upon a military reservation they never stop until they ver or surround it, as their business increases.

Certain amendments suggested in committee were transmitted Secretary of War along with the bill. Under date 9th instant, he

I beg to inform you that the bill (S. 827) as now draughted, with the amen proposed (inclosed), meets the approval of this department.

This is business-like, and leaves no doubt as to his opinion. In tion to these communications, the committee have examined an admi drawn map of the reservation, showing the direction of the right o and the location of the portion proposed to be sold. The committe this case as it finds it, with the right of way granted through the Fort enworth reservation, by law for railway purposes. See sec. 3, act Ju 1868, U. S. Stat. at L., vol. 15, page 122, as follows:

SEC. 3. *And be it further enacted*, That for the use of railroads leading to said from either side of the river there is hereby granted a right of way through sai Leavenworth military reservation not exceeding for all of said roads three hu feet in width: *Provided*, That said roads do not in any way interfere with the buildings on said military reservation.

If the sale of this land will not injure the residue, provided a po of its proceeds are devoted to its inclosure, then what may be left o proceeds can well be expended in needed permanent improvemen suggested by General Pope; so that it appears to the committee the sale of the part described in the first section of the bill, and sp cally shown in the map accompanying this report, would not only be injurious to the public interest, but would, in fact, be wise econo in that the needed improvements could be erected without cost to Treasury—a thing most unusual in this day and generation.

Senate bill 827, having the same object in view as the present was introduced in the Senate February 27, 1878, and referred to committee, and reported back with certain amendments, and, as amend the committee recommended the passage of the bill (see report 273. companying S. 827, Forty-fifth Congress, second session), and on the June, 1878, the bill, as amended and reported by the committee, pa the Senate without further amendment than as made by the commit (See Senate Journal, Forty-fifth Congress, second session, pages 660, 6

Senate bill 159, now reported, is in the exact language of S. 827 passed the Senate as above stated, except that, for greater securit the government, the committee recommend amendment of the bill adding at the end of line 6, section 2, after the word "war," the words " if said survey and appropriation shall be approved by the Secretar War, then," and amendment of line 7, section 2, as shown by the bi reported. A careful review of its former action satisfies the comm of its correctness, and as the bill now reported is in the language o bill which, having the same object, passed the Senate as above, the mittee report back S. 159 with amendment as above, and recommend its passage.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 72.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 317.]

The Committee on Military Affairs, to whom was referred the bill (S. 317) for the relief of Capt. J. B. Campbell, having carefully considered the same, respectfully submit the following report:

The letter below was addressed by the Secretary of War to the chairman of the committee:

WAR DEPARTMENT,
Washington City, April 19, 1879.

SIR: I have the honor to return Senate bill 280, for the relief of Capt. J. B. Campbell, together with House Report No. 91, Forty-fifth Congress, third session, containing full information in this case from the records of this department.

Very respectfully, your obedient servant,

GEO. W. McCRARY,
Secretary of War.

Hon. T. F. RANDOLPH,
Chairman Committee on Military Affairs,
United States Senate.

It will be observed that the Secretary of War states that House Report No. 91, Forty-fifth Congress, third session, contains full information in this case from the records of this department. That report is as follows:

[House Report No. 91, Forty-fifth Congress, third session.]

JANUARY 31, 1879.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BRAGG, from the Committee on Military Affairs, submitted the following report, to accompany bill H. R. 6271:

The Committee on Military Affairs, to whom was referred a communication from the Secretary of War recommending the passage of an act for the relief of Capt. J. B. Campbell, of the United States Army, beg leave to report:

That they have carefully considered said communication and accompanying documents, and recommend the passage of the bill prepared by the committee.

WAR DEPARTMENT,
Washington City, February 15, 1878.

The Secretary of War has the honor to transmit to the House of Representatives a copy of a communication from Capt. J. B. Campbell, Fourth Artillery, and other papers, in regard to the suit recently brought against him by Hugh Waters in the United States circuit court of Oregon; and as the suit was brought for acts done in his official capacity and in obedience to specific orders, he asks that the government assume the payment of the judgment against him and costs, amounting to $2,291.85.

It will be seen from the indorsement of General McDowell, commanding the Military Division of the Pacific, that Captain Campbell was acting in the line of his duty

in obeying the orders of his military superiors and in carrying out sections 1957, 2[illegible]1 and 2151 of the Revised Statutes.

This matter is therefore respectfully submitted, with the urgent recommenda[illegible]t that an act be passed at the present session of Congress for the relief of Capt[illegible] Campbell.

GEO. W. McCRARY,
Secretary of War.

The SPEAKER *of the House of Representatives.*

COPIES OF PAPERS RELATIVE TO SUIT BROUGHT AND JUDGMENT OB TAINED BY HUGH WATERS AGAINST CAPT. J. B. CAMPBELL, FOURTE ARTILLERY, FOR ACTS DONE IN HIS OFFICIAL CAPACITY AS COMMAND ING OFFICER, POST OF SITKA, ALASKA, &c., AND FROM WHICH JUD MENT, COSTS, &c., CAPTAIN CAMPBELL NOW PRAYS RELIEF.

Official copies.

E. D. TOWNSEND,
Adjutant-General.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 14, 1878.

[Occident Hotel, Megler & Wright, proprietors.]

HEADQUARTERS BATTALION FOURTH ARTILLERY,
EN ROUTE, AT ASTORIA, OREG.,
June 27, 1876.

Maj. H. CLAY WOOD, Assistant Adjutant-General,
Headquarters Department of the Columbia:

I respectfully inform the commanding general that one Hugh Waters, late of Wr gel, Alaska, who was arrested in August, 1874, at Wrangel, Alaska, as one of the fi of Curry & Waters, for selling liquor at Wrangel, in violation of the laws of t United States, has to-day instituted suit against me personally in the circuit court Oregon for Clatsop County for false imprisonment, laying damages in the sum $25,000. It is answerable in ten days from date in pain of default. Of course this one of many such things that I suppose will be attempted, and they must be broug before the United States district court, as all my operations in Alaska were as a publ officer of the United States, carrying out and executing United States law. I have h no time to see anybody concerning the matter this evening, but will take the nec sary steps to have the case postponed until it can be transferred to the United Stat district court.

I cannot remain behind my command, and will only do what is necessary to tide matter over for the present. I respectfully request you to procure the authority of t War Department and Department of Justice to have this case properly and thorough defended, and that it be done with the utmost promptness. I should be relieved all expense in the matter, as all I did as commanding officer of Sitka was done by t positive and direct order of my superiors.

I do not exactly know the process by which a case is transferred from a State to United States court: but if action of the judge or district attorney is necessary, ple procure them. Robert Fulton and Page & Yocum are attorneys for the plaintiff.

Please give this matter the most prompt attention, and have me relieved of the penses I may have to undergo here in the way of counsel. Let me hear from you return of mail.

Respectfully, your obedient servant,

J. B. CAMPBELL,
Captain Fourth Artillery, Commanding Battalion Fourth Artillery.

[First indorsement.]

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
Portland, Oreg., July 10, 1876.

Respectfully forwarded to the assistant adjutant-general, Military Division of t Pacific, inviting attention in this connection to the views indorsed October 6, 1875, the assistant adjutant-general (subsequently carefully considered and concurred in me), upon the application of Lieutenant Boyle, Twenty-first Infantry, for counsel i similar case.

The request of Captain Campbell for authority to employ counsel to defend him is urgently recommended for approval.

Judge W. W. Upton, in this city, by request of Captain Campbell, prepared necessary papers for the transfer of the case from the State court to the United States court, and will have charge of and conduct the defense until concluded, it being understood that it is no part of the duties of the United States district attorney to undertake the defense of an Army officer in such cases. I therefore recommend the employment of Judge Upton in this case.

The plaintiff, Hugh Waters, was arrested at Fort Wrangel, October 24, 1874 (one of the firm of Curry & Waters), for violation of section 20, act of Congress approved June 30, 1834, introducing spirituous liquors into the Indian country, and discharged by United States Commissioner Wilcox June 8, 1875, improperly, as I think, for there is clear evidence that Curry & Waters were keeping open bar and selling liquor at Fort Wrangel.

O. O. HOWARD,
Brigadier-General, Commanding.

[Second indorsement.]

HEADQUARTERS MILITARY DIVISION PACIFIC,
San Francisco, July 17, 1876.

Respectfully forwarded to the Adjutant-General.
In the absence of the division commander.

J. C. KELTON,
Lieutenant-Colonel, Assistant Adjutant-General.

[Third indorsement.]

ADJUTANT-GENERAL'S OFFICE,
Washington, July 27, 1876.

Respectfully submitted to the Secretary of War, with copy for the Department of Justice.

* * * * * * *

E. D. TOWNSEND,
Adjutant-General.

WAR DEPARTMENT,
Washington City, July 29, 1876.

SIR: I have the honor to inclose copy of letter from Capt. J. B. Campbell, Fourth Artillery, dated the 27th ultimo, reporting that suit has been brought against him by Hugh Waters, late of Wrangel, Alaska, and beg to invite your attention to the indorsement of General Howard.

The counsel mentioned by General Howard has not been employed by direction of this department, nor does it concur in his views as to duties of United States attorney.

I have respectfully to request that the defense of Captain Campbell be undertaken by such officer as the Department of Justice may direct.

Very respectfully, your obedient servant,

J. D. CAMERON,
Secretary of War.

The Hon. ATTORNEY-GENERAL.

DEPARTMENT OF JUSTICE,
Washington, August 1, 1876.

SIR: Replying to your letter of the 29th ultimo, I have the honor to inform you that I have this day instructed Rufus Mallory, esq., United States attorney for the district of Oregon, to appear in defense of Capt. J. B. Campbell, Fourth Artillery, in the suit for assault and battery and false imprisonment brought against him by one Hugh Waters, late of Wrangel, Alaska, the ground of the action being the arrest of said Waters by Captain Campbell in August, 1874, at Wrangel, for selling liquor in violation of the law of the United States.

Very respectfully, your obedient servant,

ALPHONSO TAFT,
Attorney-General.

Hon. J. D. CAMERON,
Secretary of War.

HEADQUARTERS POINT SAN JOSÉ, CAL.,
September 28, 1877.

To the Hon. SECRETARY OF WAR. (Through Headquarters Military Division of the Pacific:)

I respectfully ask your attention to the following:

In August, 1874, I was ordered to Sitka, Alaska, in command of Companies F and L, Fourth Artillery. While *en route* for that place from San Francisco, I was met at Astoria, Oreg., by Brevet Maj. Gen. J. C. Davis, U. S. A., then commanding the Department of the Columbia, who especially called my attention to General Orders Nos. 40 and 57, War Department, series of 1874, and to General Order No. , Headquarters Department of the Columbia, of 1874. He told me that my conduct as commanding officer must be guided strictly by the above-mentioned orders, and that he should expect me to exert as much energy and perseverance in carrying out their provisions as possible. He told me he knew from personal experience that the command was a difficult and arduous one at all times, and that it would be especially so now (then) on account of the mining excitements and the large contraband trade that had sprung up. He especially called my attention to alleged unlawful trade and violations of law at Fort Wrangel; said he wished me to break them up, and establish the licensed trade provided for in his orders. He told me that Captain Rodney, my predecessor at Sitka, had suppressed illicit distilling at that place, and that I would find there several citizen prisoners, who had been in the guard-house several months.

I expressed my alarm and apprehension at such a state of affairs, declared it was in contravention of the rights of citizenship, and at variance with every idea I held concerning personal rights and liberty, and that my first act would be to send these people to Portland to be either convicted or acquitted by the proper courts. General Davis told me I must not do so, because the United States courts in Oregon denied jurisdiction in such cases. I asked him what I should do; he said means would ultimately be found to bring offenders to justice, and that in the mean time he would only reiterate the orders of the War Department, which were that the commanding officer at Sitka should proceed against all offenders. He told me to be careful to arrest no one without sworn testimony of at least two parties, and, if possible, to have all cases examined by a board of officers; said he would permit me, if I chose, to release arrested parties on condition of their leaving the Territory.

I told him I feared such a course would render me liable to suit for condonation of crime; that I should arrest no one except upon clear proof, and that if I should liberate such parties without giving them the benefit of a trial, they would have good cause for action against me for false imprisonment. He agreed with me in this respect and told me all he had further to say was that he had confidence in my judgment and integrity, and that he expected me to be vigorous and impartial in carrying out the law, and clearing the Territory of a very bad class of people who had assembled there.

On my way up the coast I ascertained that the law in reference to liquor was extensively and openly violated at Fort Wrangel, a settlement upon the abandoned site of a military post at the mouth of the Stickeen River, the *entrepôt* for the British Columbia gold mines and Hudson Bay posts in that country, and a place of considerable commercial importance since the treaty of Washington made the Stickeen a free commercial river. I ordered Captain Rodney on his way down the coast to land his force at Wrangel, and, being governed by the orders of the War Department and Department of Columbia, to destroy all illicit liquor he might find there, seize the goods, chattels, &c., of those violating the law, turn them over to the custody of the collector of customs at that place, and to report his operations fully to me, and also to the commanding general Department of Columbia, on his arrival in Portland. I directed Captain Rodney to make no arrests, first, because General Davis had forbidden the sending of prisoners to Portland, and second, because there was no authority in force to hold prisoners at Fort Wrangel.

By the return mail-boat I was ordered by commanding general Department of Columbia to send an officer and twelve men to Fort Wrangel to keep the peace and prevent law-breaking. I gave the officer I sent, Lieut. A. B. Dyer, Fourth Artillery, copies of the War Department and Department of Columbia orders before mentioned and told him in all his operations he must be limited and controlled by them. I also reiterated to him General Davis's verbal orders to me in reference to arrests, and told him if any of the offenders detected by Captain Rodney remained there, to arrest them, provided he could get the affidavits against them.

Among the most prominent violators of the law at Fort Wrangel was a firm known and doing business under the name of Curry & Waters. Both Curry and Waters were arrested and with others sent to Sitka as prisoners, where they arrived about the 16th of October, 1874. I at once represented to headquarters Department of Columbia how these prisoners were accumulating upon my hands, and urged as persistently as I was able that something should be done to determine their status, and at least to relieve me at once of any further care and custody of them; that my power and duty ceased after their arrest; that I possessed no magistratic or judicial authority in the

at I held them under sworn statements as to their guilt; that Alaska was of any of the machinery of civil law, either local or national, and that the ibunal available was in Oregon, 1,800 miles distant.

ile my lieutenant at Wrangel had detected the collector of customs of that only in the violation of the non-intercourse Indian laws, but in smuggling liquor into the Territory. He arrested him, and at once a flood of complaints from all sources, of extortion in office, fraud, bribery, and other offenses is official. The customs officials closed the custom-house, and refused to lear the British ships arriving or clearing from that port, thinking thereby e to liberate the collector. One British steamer came to Sitka with this for information as to how she was to get her papers. I told the custom-ole I would not liberate Carr (the collector's name); that they might act as had died, and that unless the custom-house was, and that speedily, opened would take the responsibility of putting one of my military officers there; e business and treaty guarantees could not and should not be impeded. In hey opened the office, and Carr was subsequently tried, convicted, and pun-is offenses.

n Carr belonged to a dirty political ring of Oregon, and I was at once at-ough the press in the most virulent manner. No falsehood was too huge or o print concerning me, and public opinion was manufactured against me; ants whose contraband trade I had destroyed joining in the outcry.

1st of December, 1874, I received orders from the department commander to vilian prisoners to Portland, Oreg., for trial, and they left on the return of r on the 24th of December, 1874. They were taken before a United States ner, and some of them bound over for trial; others were discharged for want e, without an effort having been made to produce the evidence I indicated. ers was liberated on the score of his claiming to have merely been barkeeper although the law would have punished him as such as well as his principal. lieved from command at Sitka in June, 1876, and while *en route* for San Cal., was sued by the above-named Hugh Waters, at Astoria, in the county latsop County, Oregon, for false imprisonment, and damages claimed at I at once notified the commanding general of the Department of Columbia and was ordered to proceed personally to Portland. I applied to the com-general for assistance. He told me to procure a lawyer—mentioning Hon. ton—to remove the case to the United States district court, and that he ly to the War Department to have the defense assumed by the government, ied for an act done officially in the line of my duty. The Department of ected the United States district attorney for Oregon to defend the suit, and I understand, especially employed the Hon. Wm. W. Upton to assist in the trial was put off from time to time, and finally was brought to trial before ates District Judge Deady in June last. A verdict for $3,500 was rendered y, and a motion at once made by the district attorney for a new trial, on the excessive damages. The motion was argued before the United States circuit ges Field and Deady, and finally was compromised by a judgment for $2,000 being entered against me.

nd on which damages were granted, I learn from the district attorney, were prisoner was not a military prisoner, but a civil prisoner; that he should een confined with men convicted of offenses; that he should not have been ork; that he should not have been held more than five days in military cus-that Davis's order to take the prisoners to Sitka, there to be dealt with to law, did not authorize you [me] to hold them over five days."

ication of my conduct in the premises, I will say that I continued the line re that had been customary among my predecessors, General Davis included; l but one place of confinement—the post guard-house—and that, until I nge it to separate the prisoners, which I did as soon as I could get the ma-labor to make the necessary changes, I was forced to keep all kinds together; ost surgeon, Dr. J. A. Fitzgerald, U. S. A., advised me that unless I kept ers in the open air and exercised them, their health would be permanently hat there were sometimes as many as thirty prisoners, including Indians, and not the force to wait upon them and cut the wood and carry water neces-eir use; that my finding citizens in the guard-house who had been there for d the orders of the commanding general, were sufficient to lead me to be-the law in reference to five days' confinement was inoperative, especially d but one opportunity in thirty days to send them from my post; that all oners were arrested by other officers, and turned over to me with written gainst them, and that, under the sixty-ninth Article of War, I was bound se prisoners until proper authority released them; that the only authority mises was superior military authority, or the proper civil officers of the tes, as these men were specifically charged with violating laws of the United also hold that the records of the post of Sitka, as well as the Department

of Columbia, bear abundant evidence of my untiring efforts to get these prisoner my hands and obtain them a hearing before a proper tribunal.

During the time I commanded in Alaska my whole effort, to the best of my judgm experience, and ability, was to uphold and carry out the law, benefit the commun and keep the peace in a turbulent community of mixed races and half-breed Indi ignorant, demoralized, intemperate, and in many cases vicious, who had little o employment, and who were surrounded by numerous tribes of powerful and war Indians. Questions and requests for assistance were daily presented to me on all ki of disputes, from breaches of the peace, non-payment of debts, brawls, drunkenn and the like, up to title to property, and even an accusation against one of the Gr clergy of the Beecher-Tilton stripe. The people under Russian rule looked to the c man in command as all-powerful, and it was difficult and often impossible to m them understand that such a state of affairs had passed away on their transfer to United States. My command and administration were thoroughly inspected by commanding general in person and by numerous deputized parties, and satisfact was always fully expressed in my acts as well as ways of performing them.

As this suit was brought against me for an act I did in my official capacity and obedience to specific orders, I respectfully ask that the War Department assume payment of the judgment against me as well as the costs for defending the suit. T Hon. W. W. Upton, the assistant district attorney in the case, now the Sec Comptroller of the United States Treasury, is in Washington, and doubtless wil called upon, be able to give such information in reference to the case and its mana ment as the War Department may deem necessary. I submit herewith a certi copy of the judgment and a statement of expenses incurred by me in carrying on suit. Captain Rodney, Assistant Surgeon Fitzgerald, and Lieutenants Stuart Paddock have been in the field against the Nez Percés Indians ever since the suit clo and I have been unable to get vouchers in proper form from them as yet. I will ward them, however, as soon as they can be procured. The amounts given I lear in personal letters to me.

I am, sir, respectfully your obedient servant,

J. B. CAMPBELL,
Captain Fourth Artillery

Memorandum of judgment and expenses of suit of Hugh Waters vs. Capt. J. B. Campl Fourth Artillery, in district court of the United States, district of Oregon, and United St circuit court, sitting in Portland, Oreg.

Judgment against Capt. J. B. Campbell	$2,100
Marshal's and clerk's fees for transferring suit	13
Mileage and expenses of Asst. Surg. J. A. Fitzgerald, United States Army, summoned from Lapwai by defense	26
Mileage, per diem, and expenses of Dr. F. A. Stirling, summoned from Oroville, Cal., to San Francisco, Cal., witness for defense before United States Commissioner Sawyer	67
Fees of L. S. B. Sawyer, United States commissioner, San Francisco, taking and sending testimony of Captain Field and Lieutenant Quinan, Fourth Artillery, and Dr. Stirling	33
Mileage and expenses of Capt. S. B. Rodney, Fourth Artillery, United States Army, summoned from Astoria to Portland, for defense	17
Same, Lieut. W. F. Stuart, Fourth Artillery, for defense	17
Same, Lieut. G. H. Paddock, Fourth Artillery, for defense	17
Total	2,281
Of the above amount I have paid, myself, cost and fees of prosecution	113
Dr. Stirling's bill	67
Commissioner Sawyer's bill	33
	214

J. B. CAMPBELL,
Captain Fourth Artillery

FORT CANBY, WASH., *September* 6, 1877.

AR SIR: I was informed by Major Rodney, some time since, that you wanted tenant Paddock and myself to notify you of the expense of our trip to Portland me last) as witnesses in your case before the United States court.

following is a list of my expenses:

8. Fare to Portland, including state-room and meals	$4 50
bill at Portland, June 9 to 14	9 00
14. Fare to Astoria, including meals	3 00
age	50
	17 00

Respectfully, &c.,

WM. F. STUART.

. J. B. CAMPBELL.

United States circuit court, Oregon.

I WATERS
rs.
CAMPBELL.

I. B. Campbell, Fourth United States Artillery, to L. S. B. Sawyer, United States commissioner, Dr.

s for taking testimony of William R. Quinan, Edward Fields, Frank S. ling, and Jno. Walsh $35

aid by

J. B. CAMPBELL,
Captain Fourth Artillery,

eipt sent to Portland and not yet returned.

Upton, attorney and counselor at law, P. O. box 673, No. 9 Dekum's Building, Portland, Oreg.]

SEPTEMBER 19, 1877.

AR SIR: Your letter of the 4th instant came duly to hand, and would have been red sooner, but that my father sailed for San Francisco on the 4th instant, and ted to see you while there. I have just received a letter from him, saying that l not meet you; his stay in San Francisco was very short.

ore his departure we argued the motion for a new trial in your case before Judge and Judge Field, of the Supreme Bench, who was here holding a term of the t court. Judge Field held (just as Deady did) that persons in such cases were ilitary prisoners, but civil prisoners; that it was unlawful to cause them to do ork; that it was unlawful to confine them with men convicted of offenses. He eld that after four days the defendant should have been discharged, and that 's order "to take the prisoner to Sitka, to be there dealt with according to law," t authorize you to hold them after the expiration of the four days.

also made a strong effort on the proposition that the damages were *excessive*, and hat question both judges agreed with us, and said that unless the plaintiff would it to take a judgment for $2,000, they would order a new trial. The plaintiff d to take the judgment of $2,000, and the judgment was so entered.

is the *finale* of the case. As the judgment is not $5,000, there can be no appeal Supreme Court. Appeal cases are limited by an act of Congress to cases where ount in controversy, exclusive of costs, exceeds the sum of $5,000, and in ac- or damages the amount in controversy is the amount for which plaintiff obtains ent. The plaintiff has filed his cost bill, which includes fees of officers and *his* s. I have examined the same and it is correct. The amount is $103.70. Then, ition, there is clerk's and marshal's fees for work done for you of the amount of making in all $113.95. This amount the bondsmen who signed the bond given oving the cause from the State court are liable as well as yourself, so you will send me the amount, $113.95, and I will pay these off for you. The judgment of course, you will let stand unpaid. If there is anything further that I can ase command me.

I remain, very respectfully, yours,

C. B. UPTON.

. J. B. CAMPBELL,
Point San José, Cal.

ered September 25, and certificate of deposit in National Bank of San Francisco, 0, for $114, inclosed, subject to order of C. B. Upton.

J. B. CAMPBELL.

In the circuit court of the United States for the district of Oregon.

HUGH WATERS, PLAINTIFF, vs. J. B. CAMPBELL, DEFENDANT. } No. 332.—SEPTEMBER 4, 1877.

Now at this day, the court being fully advised in the premises, it is ordered that the motion for a new trial filed herein by the defendant be, and the same is hereby, allowed, unless the plaintiff will consent to remit fifteen hundred dollars of the damages heretofore assessed by the jury against the defendant, in which case said motion is denied; and thereupon said plaintiff remits the damages as aforesaid; said plaintiff appearing by Messrs. W. W. Page and George W. Yocum, his attorneys, and said defendant appearing by W. W. Upton and C. B. Upton, his attorneys.

Whereupon it is considered that the said plaintiff have and recover of and from the said defendant the sum of two thousand dollars, his damages assessed by the jury herein, together with his costs and disbursements herein expended, taxed at one hundred dollars and fifty cents.

THE UNITED STATES OF AMERICA,
District of Oregon, ss:

I, R. H. Lamson, clerk of the United States circuit court for the district of Oregon, do hereby certify that the foregoing copy of entry of judgment in the journal of said court has been by me compared with the original, and that it is a correct transcript therefrom, and of the whole of such original, as the same appears of record at my office and in my custody.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Portland, in said district, this 21st day of September, 1877.

R. H. LAMSON, *Clerk.*

OROVILLE, BUTTE COUNTY, CAL.,
May 31, 1877.

Received from Capt. J. B. Campbell, Fourth Artillery, the sum of $67.90, currency, for travel expenses, &c., incurred during journeys from Oroville, Cal., to San Francisco, Cal., on the 24th, 25th, 26th, 29th, 30th, and 31st days of May, 1877, for the purpose of appearing before the United States commissioner, Sawyer, in order to give testimony in the suit of Hugh Waters *vs.* J. B. Campbell.

F. S. STIRLING, M. D.

UNITED STATES OF AMERICA,
District of California:

I, Joseph F. O'Bierne, United States commissioner, district of California, do hereby certify that Frank S. Stirling, M. D., a witness on behalf of Maj. J. B. Campbell, in the case pending at the United States circuit court of Oregon, entitled "Hugh Waters *vs.* J. B. Campbell," appeared before me on the 25th and 30th days of May, A. D. 1877, in order to testify on behalf of defendant in said action.

Attest, &c.

JOS. F. O'BIERNE,
United States Commissioner and Deputy Clerk United States Court, California.

[Indorsements.]

HEADQUARTERS MILITARY DIVISION PACIFIC AND DEPARTMENT CALIFORNIA,
San Francisco, Cal., October 6, 1877.

Respectfully forwarded to the Adjutant-General, requesting the attention of the Secretary of War be invited hereto at an early day.

Captain Campbell, Fourth Artillery, while commanding officer at Sitka, Alaska, in obeying the orders of his military superiors, and in carrying out the acts of Congress, sections 1957, 2150, 2151, Revised Statutes United States, has been found guilty of unlawful conduct by the United States district court of Oregon, and judgment found and affirmed by the United States circuit court against him for $2,100, which, together with the costs, amounts to $2,291.85. The sections of the statutes referred to, when applied in Alaska, contain incompatible provisions. It is not possible for a military commander in Alaska, under section 2150, to arrest a violator of section 1955, and "keep and deliver" him for trial as prescribed by section 1957, without himself violating the provisions of section 2151, which declares he shall not detain a prisoner over five days after arrest and before removal.

Captain Campbell at Sitka could not comply with all the statutes, but he did the best he could, and brought those who had offended against the laws of the United

trial and conviction, and for doing this and upholding the majesty of the
ie United States he finds himself mulcted in damages amounting to $2,291.85
urts of the United States.
se the Secretary of War will be able to come speedily to Captain Campbell's
1 no other way, by asking Congress to pass an act for his relief.

IRVIN McDOWELL,
Major-General, Commanding Division and Department.

ADJUTANT-GENERAL'S OFFICE,
Washington, October 16, 1877.

ully submitted to the Secretary of War, with papers upon which the United
rict attorney for Oregon was instructed to appear in defense of Captain
n the suit herein mentioned.

E. D. TOWNSEND,
Adjutant-General.

---

ript showing action of department in previous claims of this nature herewith.

[Indorsement on (1747 A. G. O., 1871), May 15, 1871.]

Walters, hospital steward, United States Army, states that in the case of
lississippi *vs.* Walters, he was ordered to pay $39.70, fine and costs; requests
on, as he was acting under orders in recovering government property,
ie or the United States Government has to pay these costs.
fully submitted to the Secretary of War.

E. D. TOWNSEND,
Adjutant-General.

ANT-GENERAL'S OFFICE, *May* 24, 1871.

9, 1871, returned from War Department with the following indorsement:
he official reports of the result of the trial and proper vouchers are received,
nt of fine and costs, $39.70, may be paid from Army contingencies."
1871, Steward Walters requests to be furnished with the information desired
nmunication of May 15 last, adding: "I was ordered to pay costs, $29.70, and
$10, should be dropped; this has now been done."
er of July 19, 1871, from this office, the comm anding general Department of
1 was requested to transmit a report of the case, showing result of the trial,
required for a proper adjustment of the matter, which was returned July
inclosing a report of the commanding officer post of Jackson, Miss.
Adjutant-General's Office, 1871, for report.
tfully submitted to the Secretary of War.

E. D. TOWNSEND,
Adjutant-General.

NT-GENERAL'S OFFICE, *August* 8, 1871.

11, 1871, returned by the Secretary, with the following order:

sum of $29.70 be paid to the hospital steward.

WM. W. BELKNAP,
Secretary of War.

fully referred to the Quartermaster-General for proper action, inviting at-
indorsement of the Secretary of War, of August 11, 1871, hereon.
mmanding general Department of the South, has been informed of this

E. D. TOWNSEND,
Adjutant-General.

NT-GENERAL'S OFFICE, *August* 14, 1871.

[Indorsement on (3330, A. G. O., 1873), August 8, 1873.]

C. Davis, commanding Department of Columbia, forwards correspondence of
. Dallas, Twenty-third Infantry, requesting to be reimbursed $22.90, incurred
payment of costs of a suit brought against him for acts committed while in
l capacity as commanding officer Fort Vancouver, Wash.
fully submitted to the Secretary of War.

E. D. TOWNSEND,
Adjutant-General.

EPARTMENT, ADJUTANT-GENERAL'S OFFICE, *August* 27, 1873.

September 2, 1873, referred from War Department to Judge-Advocate-General, and returned with indorsement, in which he says: "No reason is perceived why the account should not be paid, if there is any fund available by the War Department for this purpose."

Returned from War Department September 9, 1873. "This account is approved, and will be paid from Army contingencies."

Respectfully referred to the Second Auditor of the Treasury, inviting attention to preceding indorsement of the Secretary of War.

E. D. TOWNSEND,
Adjutant-General.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE, *September* 13, 1873.

[Memorandum.]

ADJUTANT-GENERAL'S OFFICE,
Washington, October 16, 1877.

See, also, action of the Secretary of War in case of Sergeant Shemp, Company A, Sixteenth Infantry. Fine and costs, paid by Capt. R. N. Scott, his commanding officer, refunded from Army contingencies, by order of the Secretary of War.

November 2, 1870. *Vide* B B, 26, 1227.

WAR DEPARTMENT,
Washington City, November 22, 1873.

SIR: Referring to your letter of the 14th instant, and inclosed copy of letter from the United States district attorney for the northern district of Illinois, who expresses the opinion that Lieut. Mark Walker, Nineteeth Infantry, who was arrested by the authorities of the State of Illinois, on a charge of false imprisonment in arresting a supposed deserter, is liable for damages, but that the case can be settled for $100, I have the honor to inform you that this department is willing to assume the responsibility of Lieutenant Walker's actions in the matter, and, by paying the amount named, have the case foreclosed.

Very respectfully, your obedient servant,

WM. W. BELKNAP,
Secretary of War.

The HON. ATTORNEY-GENERAL.

Sections 1957, 2150, 2151, Revised Statutes, referred to by General McDowell, are as follows:

SEC. 1957. Until otherwise provided by law, all violations of this chapter, and of the several laws hereby extended to the Territory of Alaska and the waters thereof, committed within the limits of the same, shall be prosecuted in any district court of the United States in California or Oregon, or in the district courts of Washington; and the collector and deputy collectors appointed for Alaska Territory, and any person authorized in writing by either of them, or by the Secretary of the Treasury, shall have power to arrest persons and seize vessels and merchandise liable to fines, penalties, or forfeitures under this and the other laws extended over the Territory, and to keep and deliver the same to the marshal of some one of such courts; and such courts shall have original jurisdiction, and may take cognizance of all cases arising under this act and the several laws hereby extended over the Territory, and shall proceed therein in the same manner and with the like effect as if such cases had arisen within the district or Territory where the proceedings are brought.

SEC. 2150. The military forces of the United States may be employed in such manner and under such regulations as the President may direct—

First. In the apprehension of every person who may be in the Indian country in violation of law; and in conveying him immediately from the Indian country, by the nearest convenient and safe route, to the civil authority of the Territory or judicial district in which such person shall be found, to be proceeded against in due course of law;

Second. In the examination and seizure of stores, packages, and boats, authorized by law;

Third. In preventing the introduction of persons and property into the Indian country contrary to law; which persons and property shall be proceeded against according to law;

Fourth. And also in destroying and breaking up any distillery for manufacturing ardent spirits set up or continued within the Indian country.

SEC. 2151. No person apprehended by military force under the preceding section shall be detained longer than five days after arrest and before removal. All officers and soldiers who may have any such person in custody shall treat him with all the humanity which the circumstances will permit.

Section 2151, it will be seen, declares that "no person apprehended by military force under the preceding section (2150) shall be detained longer than five days after arrest and before removal." *

Waters was arrested at Fort Wrangel, Alaska, by command of Captain Campbell, and sent, with others, to Sitka, arriving there about October 16, 1874. It appears that Captain Campbell promptly reported the arrest to department headquarters, and urged that he be relieved from the further care and custody of the prisoners on hand, stating that his power and duty ceased with the arrest; that he possessed no power as a magistrate or judicial authority in their cases.

While this was going on, the collector of customs at Fort Wrangel (an abandoned post at the mouth of Stickeen River, the entrepôt for British Columbia gold mines) was arrested for smuggling liquor and violating laws in reference to intercourse with Indians. It further appears that Alaska was "destitute of any of the machinery of civil law, either local or national, and that the nearest tribunal was in Oregon, 1,800 miles distant."

On the 21st December, 1874, Captain Campbell received orders from the department commander to send the civilian prisoners to Portland, Oreg., and obeyed said order December 24, 1874. Article 69 of the Rules and Articles of War, embraced in section 1342 Revised Statutes, reads as follows:

ART. 69. Any officer who presumes, without proper authority, to release any prisoner committed to his charge, or suffers any prisoner so committed to escape, shall be punished as a court-martial may direct.

If Waters was guilty as charged, then his arrest was lawful and rightfully made under the authority of the orders given Captain Campbell by his superior officer, the department commander.

The five days' limit for detention of the prisoner set forth in section 2151 has nothing to do with the legality of arrest. Captain Campbell could not, upon the showing he makes, remove the prisoner 1,800 miles away for trial, without means of removal. Thus, for failing to do an impossible thing, he appears liable to the naked letter of section 2151. But it must be borne in mind that article 69 of the Rules and Articles of War was just as much the law of the land as section 2151.

This man Waters had violated wantonly the law. It was the captain's duty to arrest, and, under article 69, just as much his duty to hold his prisoner as to arrest, until lawfully relieved by superior authority. This he did not get until December 21, 1874, much more than five days after the arrest, and he obeyed promptly by sending the prisoners on the return steamer, December 24, 1874. In this conflict, or seeming conflict, the whole spirit of the provisions of the law relating to the unorganized Territory of Alaska, a Territory without courts, local or national, sustains that law obeyed by Captain Campbell most in harmony with good order, peace, and observance of law in that distant Territory, and it might be questioned whether a general law conflicting with the evident purpose of the laws specially applicable to Alaska Territory would, by rigid enforcement, annul the whole policy applicable to that distant unorganized Territory, destitute of courts to enforce law.

In the judgment of the committee, in view of the surroundings of this case, it would be unjust and cruel to require Captain Campbell to pay this judgment or any of the expenses of this suit. To do so would be to place a premium on neglect and a discount on meritorious diligence. The committee insert the orders referred to by Captain Campbell.

* This has no special reference to Alaska. The laws specially relating to that unorganized Territory are to be found in Revised Statutes, sections 1954 to 1976, both inclusive; section 2151 relates to Indian intercourse generally.

[General Orders No. 40.]

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, May 16, 1874.

The act of Congress of March 3, 1873, having extended the laws of the United States relating to customs, commerce, navigation and trade, and intercourse with Indian tribes, &c., over the mainland, islands, and waters of the territory ceded to the United States by the Emperor of Russia, by treaty concluded at Washington the 20th day of March, A. D., 1867, the introduction into the Territory of Alaska of spirituous liquors and wines, "except such supplies as shall be necessary for the officers of the United States and troops of the service, under the directions of the War Department," is prohibited. Such supplies will be introduced into the Territory only upon special permits, to be given from headquarters Military Division of the Pacific, or from the headquarters of the Department of the Columbia.

Spirituous liquors or wines for ports or places which can be reached only by passing through the Territory of Alaska, shipped upon vessels intending to touch at or trade with places in or pass through the waters of Alaska, may be landed at any port in that Territory for transshipment only, under the regulations of the Treasury Department.

The commanding officer at Sitka, Alaska, will proceed against all persons violating sections 20 and 21 of the act of Congress approved June 30, 1834, by introducing any spirituous liquors or wines into the Territory of Alaska, as therein directed.

The following acts of Congress and opinions of the Attorney-General upon this subject are published for the information of all concerned:

Act approved March 3, 1873.

AN ACT making appropriations for sundry civil expenses of the government for the fiscal year ending June thirtieth, eighteen hundred and seventy-four, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, * * * That section one of an act entitled "An act to extend the laws of the United States relating to customs, commerce, and navigation over the territory ceded to the United States by Russia, to establish a collection-district therein, and for other purposes," approved July twenty-seventh, eighteen hundred and sixty-eight, be so amended as to read as follows: "That the laws of the United States relating to customs, commerce, and navigation, and sections twenty and twenty-one of 'An act to regulate trade and intercourse with Indian tribes and to preserve peace on the frontiers,' approved June thirtieth, eighteen hundred and thirty-four, be, and the same are hereby, extended to and over all the mainland, islands, and waters of the territory ceded to the United States by the Emperor of Russia by treaty concluded at Washington on the twentieth day of March, anno Domini eighteen hundred and sixty-seven, so far as the same may be applicable thereto."

Act of June 30, 1834.

SEC. 20. *And be it further enacted,* That if any person shall sell, exchange, or give, barter, or dispose of any spirituous liquor or wine to an Indian (in the Indian country), such person shall forfeit and pay the sum of five hundred dollars; and if any person shall introduce, or attempt to introduce, any spirituous liquor or wine into the Indian country, except such supplies as shall be necessary for the officers of the United States and troops of the service, under the direction of the War Department, such person shall forfeit and pay a sum not exceeding three hundred dollars; and if any superintendent of Indian affairs, Indian agent or subagent, or commanding officer of a military post, has reason to suspect, or is informed, that any white person or Indian is about to introduce, or has introduced, any spirituous liquor or wine into the Indian country in violation of the provisions of this section, it shall be lawful for such superintendent, Indian agent or subagent, or military officer, agreeably to such regulation as may be established by the President of the United States, to cause the boats, stores, packages, and places of deposit of such person to be searched, and if any such spirituous liquor or wine is found, the goods, boats, packages, and peltries of such persons shall be seized and delivered to the proper officer, and shall be proceeded against by libel in the proper court, and forfeited, one-half to the use of the informer and the other half to the use of the United States; and if such person is a trader, his license shall be revoked and his bond put in suit. And it shall, moreover, be lawful for any person in the service of the United States, or for any Indian, to take and destroy any ardent spirits or wine found in the Indian country, except military supplies as mentioned in this section.

SEC. 21. *And be it further enacted,* That if any person whatever shall, within the limits of the Indian country, set up or continue any distillery for manufacturing ardent spirits, he shall forfeit and pay a penalty of one thousand dollars; and it shall be the duty of the superintendent of Indian affairs, Indian agent or subagent, within the limits of whose agency the same shall be set up or continued, forthwith to destroy and break up the same; and it shall be lawful to employ the military force of the United States in executing that duty.

Act of July 27, 1868.

ıcted by the Senate and House of Representatives of the United States of America s assembled, That the laws of the United States relating to customs, com- d navigation be, and the same are hereby, extended to and over all the main- ıds, and waters of the territory ceded to the United States by the Emperor by treaty concluded at Washington on the thirtieth day of March, anno ghteen hundred and sixty-seven, so far as the same may be applicable

---

Opinions of the Attorney-General.

DEPARTMENT OF JUSTICE,
August 12, 1873.

N. BELKNAP, *Secretary of War:*

June last I received a communication from the chief clerk of the War De- dated the 16th of that month, which purports to have been sent to me dur- absence, but by your direction, inclosing a number of papers relating to that have arisen in connection with the administration of the Indian inter- s. Referring to the terms "Indian country" used in those laws, it is observed ve mentioned communication that the question is constantly recurring, What country? and I understood it to be one of the objects of the communication om this department an answer to that question. The communication, besides, request for an opinion as to whether the War Department has exclusive to permit the introduction of spirituous liquors into the Indian country. rd to the subject just adverted to, it appears that by the twentieth section of June 30, 1834 (4 Stat., 732), a penalty was imposed upon any person who should ıange or give, barter, or dispose of any spirituous liquor or wine to an In- ıe Indian country," or who should "introduce, or attempt to introduce, any liquor or wine into the Indian country, except such supplies as shall be for the officers of the United States and troops of the service, under the of the War Department." The effect of this enactment was not only to pro- ale or disposal of those articles to the Indians in the Indian country, but olly prohibit their introduction into that country, excepting where they ı there as military supplies under the direction of the War Department. econd section of the act of March 3, 1847 (9 Stat., 203), amendatory of the section of the act of 1834, imprisonment was added to the fines imposed by section. Thus stood the law on this subject until the passage of the act of 13 1862 (12 Stat., 339), which amended the twentieth section of the act of to read as follows:

f any person shall sell, exchange, give, barter, or dispose of any spirituous vine to any Indian under the charge of any Indian superintendent or Indian ɔlnted by the United States, or shall introduce or attempt to introduce any liquor or wine into the Indian country, such person, on conviction thereof proper district court of the United States, shall be imprisoned for a period ling two years, and shall be fined not more than three hundred dollars: *ıowever,* That it shall be a sufficient defense to any charge of introducing or ɡ to introduce liquor into the Indian country if it be proved to be done by he War Department, or of any officer duly authorized thereto by the War ıt," &c. The remainder of the provision is unimportant to the matter in hand. endment was afterward re-enacted by the act of March 15, 1864 (13 Stat., gave to the circuit court, also, cognizance of cases arising thereunder, but ther material alteration therein; and, as thus re-enacted, it appears to be aw now in force which is applicable to the subject under consideration. in effect, declares that any person who introduces, or attempts to introduce, liquor into the Indian country is punishable by fine and imprisonment ex- ɔe done by order of the War Department, or any officer duly authorized by the War Department." By fair implication, the introduction of spirit- r into the Indian country is prohibited wherever it is not done by authority r Department; and hence the authority of that department touching the ɔn of liquor into the Indian country would seem to be exclusive. The What is Indian country within the meaning of the Indian intercourse laws? ɛss easy solution. By act of March 30, 1802 (2 Stat., 139), a boundary-line he territory then allotted or secured by treaty to the Indians (which is ɪignated as "Indian country") and the other territory of the United States ɛly established by metes and bounds, with a proviso, however, that the t thereafter be varied by treaties with the Indians. From the multiplicity eaties, it, in the course of time, became difficult to ascertain precisely what mits of the Indian country.

ly this inconvenience and render those limits more obvious and certain, the

act of June 30, 1834 (4 Stat., 729), in its first section, provided "that all that part c the United States west of the Mississippi, and not within the States of Missouri an Louisiana or the Territory of Arkansas, and also that part of the United States east c the Mississippi River, and not within any State to which the Indian title has not bee extinguished, for the purpose of this act be taken and deemed to be the Indian country.

The understanding of the framers of the law of 1834 was that the Indian country, a thereby defined, would embrace: 1st, the whole of the territory of the United States west of the Mississippi not within the States of Missouri and Louisiana or the Territory of Arkansas; 2d, that part of the territory of the United States east of the Mississippi not within any State to which the Indian title remains unextinguished. (See report of committee, House of Rep., No. 474, 1st sess. 23d Cong., pp. 1 and 10.) In the report just cited it is remarked, with reference to the Indian country as defined in the first section of that act: "On the west side of the Mississippi its limits can only be changed by legislative act. On the east side of that river it will continue to embrace only those sections of country, not within any State, to which the Indian title shall not be extinguished. The effect of the extinguishment of the Indian title to any portion of it (*i.e.*, of the country east of the Mississippi) will be the exclusion of such portion from the Indian country." Subsequently the question arose as to whether the Territory of Oregon was within the limits of the Indian country west of the Mississippi, as described in the act of 1834; and Congress, apparently assuming that it was not, provided by the fifth section of the act of June 5, 1850 (9 Stat., 437), as follows:

"That the law regulating trade and intercourse with the Indian tribes east of the Rocky Mountains, or such provisions of the same as may be applicable, be extended over the Indian tribes in the Territory of Oregon." By the seventh section of the act of February 27, 1851 (9 Stat., 587), it was also provided: "That all the laws now in force regulating trade and intercourse with the Indian tribes, or such provisions of the same as may be applicable, shall be, and the same are hereby, extended over the Indian tribes in the Territories of New Mexico and Utah." And recently, by the act of March 3, 1873, chapter 227, sections 20 and 21, of the act of 1834, were "extended to and over all the mainland, islands, and waters of the territory ceded to the United States by the Emperor of Russia by treaty concluded at Washington on the 30th day of March, A. D. 1867, so far as the same may be applicable thereto." From this legislation it would seem that, in the view of Congress, the Indian country *west* of the Mississippi, as defined in the act of 1834, was originally limited to the territory then belonging to the United States situated between that river and the Rocky Mountains, and not within the States of Missouri and Louisiana or the Territory of Arkansas. Respecting that part of the Indian country, it was the understanding of the framers of the act of 1834 that the limits thereof could only be changed by legislative enactment. I am not aware of the existence of any statute that in direct terms changes those limits. But the course of legislation since the date of that act, in opening up a great portion of that region to settlement, in establishing Territorial governments there, and in the admission of new States formed therein, has doubtless had *the effect* to alter the limits referred to, or at least to very much restrict the applicability of the Indian intercourse laws within the district of country thereby described.

It will be observed that the acts of 1850 and 1851, cited above, do not declare the whole of the Territories of Oregon, New Mexico, and Utah to be Indian country, but extend the intercourse laws, or such provisions of the same as may be applicable, over the Indian tribes in those Territories, respectively.

I think it unquestionable, both as regards the region west of the Mississippi originally included within the limits of the Indian country by the act of 1834, and as regards the region formerly included within the Territories just mentioned, that all Indian reservations occupied by Indian tribes, and also all other districts so occupied to which the Indian title has not been extinguished, are Indian country within the meaning of the intercourse laws, and remain (to a greater or less extent, according as they lie within a State or a Territory) subject to the provisions thereof. Whether a district to which the Indian title has been extinguished or which is open to pre-emption, homestead, or other settlement under the laws of Congress, situated in one of the Territories established within the same boundaries, may also under any circumstances be deemed Indian country, and subject to the intercourse laws, I express no opinion, in view of the fact that a case is pending before the Supreme Court of the United States in which the question is involved.

I shall endeavor to procure an early hearing of the case referred to at the ensuing term, and will advise you of the decision of the court as soon as it is ascertained.

I return herewith the papers received.

Very respectfully, your obedient servant,

GEO. H. WILLIAMS,
Attorney General.

DEPARTMENT OF JUSTICE,
Washington, Nov. 13, 1873.

lon. W. W. BELKNAP,
Secretary of War:

SIR: I have the honor to acknowledge the receipt of your letter of the 10th inst., bmitting, for my official opinion, the questions as to whether or not the Territory of laska is embraced within the term "Indian country," and also whether or not your partment has authority to exercise control over the introduction of spirituous liquors to that Territory.

Section 4 of the act of July 27, 1868 (15 Stats., 241), provides "That the President all have power to restrict and regulate or to prohibit the importation and use of firems, ammunition, and distilled spirits into and within the said Territory." Pursuant the power thus conferred the President made several proclamations regulating the roduction and use of distilled spirits in Alaska.

The last paragraph of the act of March 3, 1873 (17 Stats., 530), provides "That the ws of the United States relating to customs, commerce, and navigation, and sections rty and twenty-one of 'An act to regulate trade and intercourse with Indian tribes d to preserve peace on the frontiers,' approved June thirtieth, eighteen hundred and irty-four, be, and the same are hereby, extended to and over all the mainland, islands, d waters of the territory ceded to the United States by the Emperor of Russia by aty concluded at Washington on the thirtieth day of March, anno Domini eighteen ndred and sixty-seven, so far as the same may be applicable thereto." Section 20 said act of 1834, as amended by the act of the 13th of February, 1862 (12 Stats., 339), as follows:

'SEC. 20. *And be it further enacted*, That if any person shall sell, exchange, give, rter, or dispose of any spirituous liquor or wine to any Indian under the charge of y Indian superintendent or Indian agent appointed by the United States, or shall roduce or attempt to introduce any spirituous liquor or wine into the Indian country, ch person, on conviction thereof before the proper district court of the United States, all be imprisoned for a period not exceeding two years, and shall be fined not more an three hundred dollars: *Provided, however*, That it shall be a sufficient defense to y charge of introducing or attempting to introduce liquor into the Indian country if be proved to be done by order of the War Department, or of any officer duly authorzd thereto by the War Department. And if any superintendent of Indian affairs, Indian ent or sub-agent, or commanding officer of a military post, has reason to suspect or informed that any white person or Indian is about to introduce or has introduced y spirituous liquor or wine into the Indian country in violation of the provisions of is section, it shall be lawful for such superintendent, agent, sub-agent, or commandg officer, to cause the boats, stores, packages, wagons, sleds, and places of deposit of ch person to be searched; and if any such liquor is found therein, the same, together ith the boats, teams, wagons, and sleds used in conveying the same, and also the eds, packages, and peltries of such person, shall be seized and delivered to the proper ficer, and shall be proceeded against by libel in the proper court, and forfeited, onealf to the informer and the other half to the use of the United States; and if such rson be a trader, his license shall be revoked and his bond put in suit. And it shall reover be lawful for any person in the service of the United States, or for any Indian, take and destroy any ardent spirits or wine found in the Indian country, except ch as may be introduced therein by the War Department. And in all cases arising der this act Indians shall be competent witnesses."

In so far as this section conflicts with preceding acts of Congress they are repealed. cording to the said act of 1878, the President was invested with unlimited discretion er the introduction and use of spirituous liquors in the Territory of Alaska; but ngress in 1873, adopting the above-cited section 20 of the act of 1834, absolutely probits the introduction of spirituous liquors or wine into said Territory, unless authorized y the War Department.

My opinion, therefore, is that, as to this matter, Alaska is to be regarded as "Indian ountry," and that no spirituous liquors or wines can be introduced into the Territory ithout an order by the War Department for that purpose.

Very respectfully,

GEO. H. WILLIAMS,
Attorney-General.

By order of the Secretary of War:

E. D. TOWNSEND,
Adjutant-General.

[General Orders No. 57.]

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, June 15, 1874.

In accordance with the following opinion of the Attorney-General, paragraph 1 of General Orders No. 40, May 16, 1874, from this office, is hereby amended to read as follows:

The act of Congress of March 3, 1873, having extended the laws of the United States relating to customs, commerce, navigation, and trade, and intercourse with Indian tribes, &c., over the mainland, islands, and waters of the territory ceded to the United States by the Emperor of Russia by treaty concluded at Washington on the 20th day of March, A. D. 1867, the introduction into the Territory of Alaska of spirituous liquors and wines is prohibited, except it be done "by order of the War Department, or of any officer authorized thereto by the War Department." Such articles will be introduced into the Territory only upon special permits to be given from headquarters Military Division of the Pacific, or from the headquarters of the Department of the Columbia.

OPINION.

DEPARTMENT OF JUSTICE,
Washington, June 3, 1874.

Hon. W. W. BELKNAP,
Secretary of War:

SIR: I have the honor to acknowledge the receipt of your letter of the 30th ult., in which you submit for my official opinion the following question:

"Has this department authority to permit the introduction of spirituous liquors or wines into the Territory of Alaska, when the liquors and wines are not for the use of officers of the United States or troops of the service?"

Section 20 of the act of June 30, 1834 (4 Stats., 732), imposes a penalty upon any person who should sell, exchange, or give, barter, or dispose of, any spirituous liquor or wine to an Indian (in the Indian country), or who should introduce, or attempt to introduce, any spirituous liquor or wine into the Indian country, except such supplies as shall be necessary for the officers of the United States and troops of the service, under the direction of the War Department.

By the act of February 13, 1862 (12 Stats., 339), this section was amended so as to read as follows: "That if any person shall sell, exchange, give, barter, or dispose of any spirituous liquor or wine to any Indian under the charge of any Indian superintendent or Indian agent appointed by the United States, or shall introduce, or attempt to introduce, any spirituous liquor or wine into the Indian country, such person, on conviction thereof before the proper district court of the United States, shall be imprisoned for a period not exceeding two years, and shall be fined not more than three hundred dollars: *Provided, however*, That it shall be a sufficient defense to any charge of introducing or attempting to introduce liquor into the Indian country if it be proved to be done by order of the War Department, or of any officer duly authorized thereto by the War Department," &c.

This act, though in the nature of an amendment, is a substitute for the whole of section 20 by the act of 1834, and nothing of said section not contained in said act is left in force. The only way to read said section is as provided in said act. According to said section 20 as it originally stood, no liquor or wine could be lawfully introduced into the Indian country, "except such supplies as shall be necessary for the officers of the United States and troops of the service, under the direction of the War Department;" but in the act of 1862, this phraseology is changed, and it is provided "That it shall be a sufficient defense to any charge of introducing or attempting to introduce liquor into the Indian country if it be proved to be done by order of the War Department, or of any officer authorized thereto by the War Department." I think the object and effect of this change were to invest the War Department with a jurisdiction over the introduction of spirituous liquors or wine into the Indian country, to be exercised at its discretion. The said act of February 13, 1862, was re-enacted, with some not material alterations, by the act of March 15, 1864 (13 Stats., 29), and by the act of March 3, 1873 (17 Stats., 530), was made applicable to the Territory of Alaska.

I therefore return an affirmative answer to your question.

Very respectfully,

GEO. H. WILLIAMS,
Attorney-General.

By order of the Secretary of War:

E. D. TOWNSEND,
Adjutant-General.

Upon the whole case the committee, so far from finding fault, find just grounds of commendation of Captain Campbell for his efficient, intelligent discharge of a difficult duty. Wherefore, the committee report back Senate bill 317 without amendment, and recommend its passage.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 73.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 315.]

The Committee on Pensions, to whom was referred the bill (S. 315) granting a pension to Henry Stanley Wetmore, have examined the same and the evidence therewith connected, and report:

The claimant, October 1, 1862, was appointed mate for duty in the Mississippi squadron, was promoted to acting ensign December 5, 1862, was appointed acting master December 2, 1863, was promoted to acting volunteer lieutenant for gallant and meritorious services, agreeable to recommendation of Rear-Admiral Porter, July 9, 1864, and continued in the service until December 29, 1865, when he was honorably discharged.

July 28, 1864, being then on duty at Cincinnati, Ohio, he was ordered by Rear-Admiral Porter to report to him for duty at Perth Amboy, N. J.; August 4, 1864, he procured a ticket at the railroad office in Cincinnati to proceed to Perth Amboy in obedience to said order. While in the baggage-room of the railroad company endeavoring to procure a check for his baggage, he had a quarrel with the officer of the railroad company, whose duty it was to check the baggage, which resulted in the baggage-master striking the claimant a blow on the head with a hatchet. The blow resulted in the disability for which claimant asks a pension.

A board of examining surgeons, under date of January 27, 1879, report that claimant is totally disabled from obtaining his subsistence by manual labor by reason of said injury to his head, and that said injury is permanent. He made application to the Pension Bureau for a pension, and claim was rejected on the ground "that the injury for which pension is claimed was not contracted in the line of duty."

The only question in the case is whether the cause assigned by the Commissioner of Pensions for rejecting the claim is correct, or, in other words, whether the injury resulting in claimant's disability was received while in the line of duty.

The testimony touching the quarrel about checking claimant's baggage is to some extent conflicting; the claimant and a friend who was in his company at the time, and saw the transaction, throwing the blame entirely on the check-master, whilst the check-master and two or three other employés of the railroad company give evidence tending to show that claimant was partly in fault. But taking all the testimony together it is clear there was nothing in the conduct of the claimant to justify an assault upon him with a deadly weapon such as the check-master used

or the manner in which he used it, and the legal proceedings that grew out of the occurrence greatly strengthen this view of the case. The check-master was prosecuted for assault and battery on claimant, and pleaded guilty to the charge. The claimant prosecuted a civil suit against the railroad company for damages on account of the injury received, and upon trial the jury awarded him a verdict of $7,000. The judgment on the verdict was set aside by the supreme court of the State for error in the ruling of the court below as to the liability of the railroad company for the conduct of its employés; but the findings of the jury show clearly their estimate of the merits of the quarrel between the claimant and the check-master.

Your committee are of opinion that the injury resulting in claimant's disability was received by him in the line of duty. They recommend that the bill be amended by striking out all after the word "Navy," in line 6, up to and including the word "service," in line 9, and that the bill so amended be passed.

O

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 74.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 35.]

e Committee on Pensions, to whom was referred the bill (S. 35) granting a pension to Herman Nettlefield, have examined the same and report:

Herman Nettlefield was a member of a corps of mounted citizen scouts ganized by First Lieut. J. N. Earl, Company D, Fourth Wisconsin lunteers, under orders of Maj. Gen. E. R. S. Canby, of which the lowing is a copy:

HEADQUARTERS MILITARY DIVISION OF WEST MISSISSIPPI,
Natchez, Miss., June 6, 1864.

st Lieut. J. N. EARL,
Company D, Fourth Wisconsin Volunteers, Baton Rouge, La.:

IR: The commanding general authorizes you to organize a corps of mounted citizen nts for service in this division. They must be reliable men, and specially fitted for s kind of service. They will be paid at rates ranging from $40 to $60 per month, ording to the value of their services, and one ration each.

hey will be organized into squads, and their services accepted on the special con- ion that they will be held subject to strict military discipline, and all the rules and icles of war. Written engagements to that effect will be entered into with each n. Commanders of squads will be allowed increased pay, in proportion to the portance of their commands. In cases where extra danger is incurred in the line of ty, or where specially valuable service is performed, extra compensation may be pected.

f you know of any soldiers who are fitted for this duty, they may be ordered to ort to you at Natchez, Miss., when furloughs will be granted to them, with the derstanding that they are not to draw any pay from their companies while employed this duty.

Very respectfully your obedient servant,

C. T. CHRISTENSON,
Major, Assistant Adjutant-General.

Nettlefield became a member of this organization July 1, 1864, on ages of $60 per month, and continued in such service until May 10, 65.

It is shown by the evidence of Charles W. Fenlason and William D. ent, who were members of the same organization, and who were pres- t with Nettlefield when the matters detailed by them occurred, that or about October 3, 1864, near Natchez, Miss., whilst this company scouts were on an expedition, and in the night-time, a charge was lered and made on the enemy; that in the charge Nettlefield was vio- itly thrown from his horse and received a fracture of the elbow joint his right arm. It also appears that said injury has resulted in per- nent injury and disability. Nettlefield was not treated for his injury

in any hospital, and Lieutenant Earl, the only commissioned offi
the scouts, is dead.

Nettlefield applied for a pension, and his claim was rejected b
Commissioner, "for the reason that the claimant was not serving
any military force of the United States at the time he incurred h
ability, but was employed as a scout whose services were paid b
Quartermaster's Department as civil employé."

The committee concur with the Commissioner and recommend
the bill be indefinitely postponed.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 815.]

ommittee on Pensions, to whom was referred bill (S. 815) to increase the tions of certain pensioned soldiers and sailors who are entirely helpless n injuries received or disease contracted while in the United States serr- have considered the same and report:

an act approved June 18, 1874, it was provided:

: section four of the act entitled "An act to revise, consolidate, and amend the elating to pensions," and approved March third, eighteen hundred and seventy- be so amended that all persons who, while in the military or naval service of ited States, and in the line of duty, shall have been so permanently and totally ed as to require aid and attendance of another person, by the loss of the sight a eyes or by the loss of the sight of one eye, the sight of the other having been usly lost, or by the loss of both hands, or by the loss of both feet, or by any njury resulting in total and permanent helplessness, shall be entitled to a pen- fifty dollars per month; and this shall be in lieu of a pension of thirty-one dol- d twenty-five cents per month granted to such person by said section: *Provided.* he increase of pension shall not be granted by reason of any of the injuries specified, unless the same have resulted in permanent, total helplessness re- g the regular personal aid and attendance of another person.

is act was altered by an act approved June 17, 1878, which is as vs:

T to increase the pension of certain pensioned soldiers and sailors who have lost both their hands or both their feet or the sight of both eyes in the service of the country.

reas, it is apparent that the present pension paid to soldiers and sailors who lost both their hands or both their feet in the service of the country is greatly quate to the support of such as have families: Therefore,

enacted by the Senate and House of Representatives of the United States of America in ss assembled, That on and after the passage of this act, all soldiers and sailors ave lost either both their hands or both their feet or the sight of both eyes in rvice of the United States, shall receive, in lieu of all pensions now paid [illegible] Government of the United States, and there shall be paid to them, in the [illegible] r as pensions are now paid to such persons, the sum of seventy-two [illegible]

[illegible], June 17, 1878.

ppears from inquiry at the Pension [illegible] sioners were borne [illegible] date the [illegible] [illegible]

act of June 18, 1874, were entitled to receive $50 per month, and whose pensions were not increased to $72 per month by the act of June 17, 1878, are fairly and justly entitled to receive the same benefits conferred on their comrades by the act last named.

Your committee recommend that the bill be amended by striking out section 2, and inserting in lieu thereof, as follows:

"SEC. 2. All pensioners whose pensions shall be increased by the provisions of this act from $50 per month to $72 per month, shall be paid the difference between said sums monthly, from June 17, 1878, to the time of the taking effect of this act."

And that the bill so amended be passed.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 76.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

Mr. LOGAN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 747.]

The Committee on Military Affairs, to whom was referred the bill (S. 747) for the relief of Harlow L. Street, have had the same under consideration, and submit the following report:

This is a bill which authorizes the restoration of Harlow L. Street, late first lieutenant First United States Cavalry, to his former rank and date of commission in the Army, by reappointment by the President and confirmation by the Senate, and to assign him to the first vacancy occurring of that grade in the cavalry arm of the service, with the proviso that he shall receive no pay for the time he was out of the service.

The following statement of the case is submitted on behalf of Lieutenant Street, upon which he predicates his claim for redress:

Harlow L. Street, a citizen of California, in 1861 enlisted in the Second California Volunteer Cavalry, being at the time eighteen years of age. He served as a corporal, sergeant, commissary-sergeant, and first sergeant of a company, and in January, 1863, was commissioned a second lieutenant of his regiment. While serving in the Territory of Utah, in 1864, he was promoted to a first lieutenancy, and in January, 1865, was commissioned captain of K company of his regiment, in which capacity he served until he was mustered out of the service of the United States in May, 1866.

On the reorganization of the Regular Army in January, 1867, Street was named on the list of meritorious California volunteer officers for a commission, and, having passed the required examination, was commissioned a second lieutenant of the First United States Regular Cavalry. He was assigned to duty on Angel Island, and at the end of four months was, on his own application, ordered to join his regiment in Nevada, with which he served continuously until April, 1868, when he was placed in command of the provost guard in San Francisco. From San Francisco he commanded 100 recruits on a march overland to Arizona, and then rejoined his regiment in Oregon. Here he received his commission of first lieutenant of A company, of which he took command, and marched to Fort Churchill, Nev. From this point he was ordered to Camp Bidwell, Cal., in command of which post he remained for some time, when, *on the 17th day of March*, 1871, he was officially notified that he had (two months before that date) been honorably mustered out of the service by General Orders No. 1, series of 1871, dated January 2, 1871.

Lieutenant Street's entire military life of eleven years was passed in what was known as the Department of California, excepting three months during which he served on the border of the adjoining Department of the Columbia. He served under Generals Sumner, Wright, and McDowell, as department commanders until 1869, then under Lieutenant-Colonel and Brevet Major-General Crook in Oregon for three months,

and then under General Ord for nearly two years, when he received his order of muster-out.

The records of the War Department show that this order of the Adjutant-General, by which this young soldier was deprived of a commission which he had earned by active field services that commenced with and continued through the great war of the rebellion, and included a year's additional campaigning against hostile Indians in the Rocky Mountain region, was based on the following act of Congress:

"*And be it further enacted*, That the General of the Army and commanding officers of the several military departments of the Army shall, as soon as practicable after the passage of this act, forward to the Secretary of War a list of officers serving in their respective commands deemed by them unfit for the proper discharge of their duties, from any cause except injuries incurred or disease contracted in the line of their duty, setting forth specifically in each case the cause of such unfitness. The Secretary of War is hereby authorized and directed to constitute a board to consist of one major-general, one brigadier-general, and three colonels, three of said officers to be selected from among those appointed to the Regular Army on account of distinguished services in the volunteer force during the late war; and on recommendation of such board, the President shall muster out of the service any of the said officers so reported with one year's pay; but such muster-out shall not be ordered without allowing such officer a hearing before such board to show cause against it."

The departmental report by which it was held by the War Department that Lieutenant Street was made liable to muster-out under this act, was that of Lieutenant-Colonel Crook, of the Twenty-third Infantry, who was commanding the Department of the Columbia, in which Street had served three months. Lieutenant Street's service in that department was in December, 1868; Lieutenant-Colonel Crook's report is dated in October, 1870, at which time Crook was not commanding a department, and Street was serving under General Ord as department commander. In this report Lieutenant-Colonel Crook says: "First Lieutenant Harlow L. Street served in the Department of the Columbia for a short time; his character for honesty and truthfulness was bad."

Such is a brief statement of the facts and the law on which Lieutenant Street, after he had, by eleven years' continuous service in the saddle and camp, utterly unfitted himself for civil pursuits, earned an honorable muster-out of the profession for which he had been selected by his brother volunteer soldiers of the State of California, the only State of the Pacific coast that sent volunteers outside of its borders to assist the Federal Government in its last struggle for sovereignty.

In the whole military career of this soldier there is no record of any censure from any of his superior officers, except this report of Lieutenant-Colonel Crook, in whose department Street served but three months, and who, when he made this report, was not only not serving with Street, but in point of fact never met him.

It will be observed that the statute above cited gives the President authority to muster any officer out of the military service of the United States on the following conditions:

1st. That the department commander of the officer has, in pursuance of this act, officially reported to the Secretary of War that such officer is unfit for the proper discharge of his duties.

2d. That such officer has been allowed an opportunity to defend himself against the report of the department commander before such board.

3d. That the report favoring such officer's muster-out of the service has been approved by a board consisting of one major-general, one brigadier-general, and three colonels.

In pursuance of this statute, orders were issued from the War Department in July, 1870, directing the various department commanders to prepare and forward to the Secretary of War a report on the efficiency and character of the officers in their command. In obedience to this order, General Ord, in whose department Street was and for some time had been serving as a post commander, prepared and forwarded to the War Department his report, which, by the above statute is made absolutely necessary in order to initiate the proceedings before the board named in the law, without the approval of which, the president had no

power to muster an officer out of the service for the cause assigned in this case.

On an examination of the special list prepared by General Ord of the officers in his department "deemed unfit for the proper discharge of their duties" the name of Lieutenant Street does not appear.

It is further shown that Lieutenant Street was not only not given an opportunity to appear before this board, but he was entirely ignorant of any proceedings against him at Washington, and, resting securely upon his good record at the War Department, he had no thought of personal injury until he received the order announcing to the Army his summary discharge from the service.

On this state of facts the law did not authorize the transfer and muster-out of this officer, and the act of the Adjutant-General was illegal and void.

As to the truth of the charge against Lieutenant Street, as it rests simply on the report of Lieutenant-Colonel Crook, it is impossible to rebut it by any stronger evidence than a letter from that officer himself, addressed to Lieutenant Street, and dated in June, 1879, in which he says:

So long a time has elapsed that I am now unable to state the circumstances with certainty. My impression, however, is that my report was based upon the statement of the regimental and post commanders of Lieutenant Street.

I have no personal acquaintance with you.

GEO. CROOK,
Brigadier-General, Commanding.

It is only necessary to add that General Crook is mistaken in stating that Lieutenant Street's post commander reported him, for the record shows that Lieutenant Street himself was post commander at the time referred to, and that he was mistaken as to the report of Lieutenant Street's regimental commander is shown by the following letter from that gentleman himself:

PALACE HOTEL,
San Francisco, April 15, 1879.

To all whom it may concern:

I certify that I was major in the First Cavalry when First Lieut. H. L. Street was mustered out of the service in General Orders No. 1, series of 1871, and that I know of no reason why he should have been mustered out of the service.

ELMER OTIS,
Lieutenant-Colonel Seventh Cavalry.

The late Secretary of War, Hon. George W. McCrary, made a thorough examination of this charge against Lieutenant Street, and so well satisfied was he that it was without foundation, and that there was no reason why he should not be reinstated, that he recommended Street to the President for appointment as Second Lieutenant of Cavalry, this being the extent of the reparation in the power of the executive to make Lieutenant Street; and this appointment he would unquestionably have received but that he was over the age at which, under the regulations of the War Department, a citizen can receive a commission in the army.

The record, which is thorough and voluminous, corroborates the statements and propositions advanced by Lieutenant Street, and the case comes clearly within the rule established by the Committees on Military Affairs of the Senate and House of the Forty-fourth and Forty-fifth Congresses, in the case of Capt. John A. Darling (Senate report No. 119, Forty-fifth Congress, second session; Senate report No. 615, Forty-fourth Congress, second session), and which reports were approved by Congress by unanimous passage of the bill (H. R. 1254) for Captain Darling's relief. It is not necessary, therefore, to further discuss the legal principles involved.

The following is an attested copy of a letter from the Hon. Alexander Ramsey, Secretary of War, the original being on file in the House Committee on Military Affairs, by which it appears Lieutenant Street's case was considered by the Secretary's predecessor, Secretary McCrary, and that it was contemplated by the President to nominate Street to the Senate for a second lieutenancy, but being over the age prescribed by the Army Regulations the same could not be done:

WAR DEPARTMENT, *December* 17, 1879.

The Secretary of War has the honor to transmit to the House of Representatives for the Committee on Military Affairs, in response to the request of the chairman of said committee, a letter from the Adjutant-General of the Army, dated the 15th instant, and copies of the reports which led to the transfer of First Lieutenant Harlow L. Street, First U. S. Cavalry, to the supernumerary list, and muster out of service on the 1st of January, 1871, and of all papers which have been filed in behalf of his restoration or reappointment to the Army, together with his military record.

This case was considered by my predecessor, who, last spring, submitted the name of Mr. Street to the President, with a view to his appointment as second lieutenant. He was not, however, nominated, owing to the fact that he was above the age prescribed by the army regulations.

ALEX. RAMSEY,
Secretary of War.

To the SPEAKER *of the House of Representatives.*

I, Charles H. Smith, clerk of the Committee on Military Affairs of the House of Representatives of the United States of America, do hereby certify that the above and foregoing is a true and correct copy of an instrument of writing now on file in the committee-room of the military committee aforesaid.

Witness my hand this 5th day of January, A. D. 1880.

CHAS. H. SMITH,
Clerk Military Committee House of Representatives.

The premises considered, your committee are of opinion that Lieutenant Street's case is an exceptional one, that he was improperly and illegally deprived of his commission, and therefore recommend the passage of the bill without amendment.

ONGRESS, } SENATE. { REPORT
ession. } { No. 77.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

XEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 517.]

nmittee on Military Affairs, to which was referred the bill (S. 517) *e relief of Francis S. Davidson, respectfully submits the following t:*

ommittee has carefully examined the voluminous record accom- g this bill. From said record it appears that Mr. Davidson, on h day of September, 1875, being then a first lieutenant in the United States Cavalry, was tried by court-martial on various and specifications. Said charges and specifications, and the onvening the court, as well as its findings and sentence, are em- in Orders No. 93, from the War Department, dated November 15, s follows:

[General Court-Martial Orders No. 93.]

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, November 15, 1875.

ore a general court-martial which convened at Fort Brown, Tex., September pursuant to Special Orders No. 159, dated August 13, and No. 161, dated 5, 1875, Headquarters Department of Texas, San Antonio, Tex., and of which ol. M. M. BLUNT, Twenty-fifth Infantry, is president, was arraigned and

ieut. *Francis S. Davidson*, Ninth Cavalry.

I.—"Willful neglect of duty, to the prejudice of good order and military discipline."

ation.—"In this: That First Lieut. *Francis S. Davidson*, Ninth United States being in command of Company G of that regiment, and having received from commander, Col. Joseph H. Potter, Twenty-fourth United States Infantry, wing order, viz:

[Special Orders No. 90.]

HEADQUARTERS, FORT BROWN, TEX.,
July 22, 1875.

st Lieut. *F. S. Davidson*, Ninth United States Cavalry, with all the available is company, G, Ninth United States Cavalry, will proceed, at 1 o'clock p. m. o El Sanz, Tex., and upon arrival relieve Company L, Ninth United States now stationed at that point. While there, Lieutenant *Davidson* will prevent d bodies of Mexican marauders and cattle thieves which he may hear of or contact with from leaving the country; he will keep small scouting parties y out, and endeavor to ascertain if any armed bodies are within his reach. mpany will be fully armed and equipped for field service, each man to carry

sixty rounds of ammunition, and to be provided with rations, and forage at the rate of six pounds of grain per animal, to include the 6th day of August, 1875.

The Quartermaster's Department will furnish four six-mule Army wagons as transportation.

By order of Col. Joseph H. Potter.

HELENUS DODT,
First Lieutenant and Adjutant Twenty-fourth Infantry, Post Adjutant.

did willfully fail and neglect to obey said order, though having ample time and opportunity to do so—in that he willfully failed to equip and supply his said company fully for the field, as required by the said order; this in several particulars, viz: in not causing each man, or any considerable number of men, of his company to carry sixty rounds of ammunition; in not causing each man to carry a blanket and a change of underclothing; in not supplying Private Robert Smith, of said company, with a serviceable cartridge-box; in not supplying each animal of said command with the amount of grain forage specified in the foregoing order, and in failing to take with his company a field-forge and anvil, a part of the equipment furnished said company expressly for field service by the United States. This at Fort Brown, Tex., on or about the 22d day of July 1875."

CHARGE II.—"Conduct prejudicial to good order and military discipline."

Specification 1st.—"In this: That First Lieut. *Francis S. Davidson*, Ninth United States Cavalry, being in command of Company G of that regiment, and having received from his post-commander, Col. Joseph H. Potter, Twenty-fourth United States Infantry, the following order, viz:

[Special Orders No. 90.]

HEADQUARTERS FORT BROWN, TEX.,
July 22, 1875.

II. First Lieut. *Francis S. Davidson*, Ninth United States Cavalry, with all the available men of his company, G, Ninth United States Cavalry, will proceed, at 1 o'clock p. m. to-day, to El Sanz, Tex., and, upon arrival, relieve Company L, Ninth United States Cavalry, now stationed at that point. While there, Lieutenant *Davidson* will prevent any armed bodies of Mexican marauders and cattle thieves which he may hear of or come in contact with from leaving the country; he will keep small scouting parties constantly out, and endeavor to ascertain if any armed bodies are within his reach.

The company will be fully armed and equipped for field service, each man to carry sixty rounds of ammunition, and to be provided with rations, and forage at the rate of six pounds of grain per animal, to include the 6th day of August, 1875.

The Quartermaster's Department will furnish four six-mule Army wagons as transportation.

By order of Col. Joseph H. Potter.

HELENUS DODT,
First Lieutenant and Adjutant Twenty-fourth Infantry, Post Adjutant.

and, having been furnished by the Quartermaster's Department four six-mule Army wagons, as transportation for the authorized field equipments and supplies of his company, as set forth in the foregoing order, did cause, or knowingly permit two or more of said wagons to be filled with unauthorized and useless articles, among which were trunks and boxes belonging to enlisted men, excessive baggage for his, Lieutenant *Davidson's*, use, and a large box containing 300 pounds, more or less, of unfitted horse-shoes; this to the exclusion of at least one-third of the grain forage required by the foregoing order, and other necessary articles of equipment, set forth in the Specification to Charge I. This at Fort Brown, Tex., on or about July 22, 1875."

Specification 2d.—"In this: That he, First Lieut. *Francis S. Davidson*, Ninth United States Cavalry, while at the ranch of El Sanz, Tex., did call to the rear of the house where he, Lieutenant *Davidson*, had been gambling, one of the company commander's guard, the guard being then engaged under the personal direction of the company commander (Lieut. E. D. Dimmick), in sending the men to their quarters. This at the ranch of El Sanz, Tex., between the hours of 2 o'clock and 4 o'clock a. m., August 1, 1875."

Specification 3d.—"In this: That he, First Lieut. *Francis S. Davidson*, Ninth United States Cavalry, did, contrary to the express orders of Lieut. E. D. Dimmick, Ninth Cavalry, and without his, Lieutenant Dimmick's, knowledge, detain at the house where he, Lieutenant *Davidson*, Ninth United States Cavalry, had been gambling, two enlisted men of Company G, Ninth Cavalry (Privates George Scott and Jesse White), and did return in company with the said privates, Scott and White, from the ranch to the camp of Company G, Ninth Cavalry. This at the ranch of El Sanz, Tex., between the hours of 3 o'clock and 5 o'clock a. m., August 1, 1875."

CHARGE III.—"Breach of arrest."

pecification.—"In this: That he, First Lieut. *Francis S. Davidson*, Ninth United tes Cavalry, after having received an order from proper authority placing him in st, in words and figures, to wit:

[Special Orders, No. 94.]

HEADQUARTERS FORT BROWN, TEX.,
July 29, 1875.

. First Lieut. *Francis S. Davidson*, Ninth United States Cavalry, is hereby placed r arrest. He will remain with his company under arrest.
order of Col. J. H. Potter.

HELENUS DODT,
First Lieutenant and Adjutant Twenty-fourth Infantry, Post Adjutant.

eave his quarters and company and visit the ranch of El Sanz, Tex. (where an tainment was in progress), distant from the camp of his company about a quar- a mile, and did so remain absent from his company and quarters from about 8 k p. m. on the 31st day of July, 1875, till about 4 o'clock a. m. on the 1st day of st, 1875. This at El Sanz, Tex., between the hours of 8 o'clock p. m., July 31, and 4 o'clock a. m., August 1, 1875."

CHARGE IV.—"Conduct unbecoming an officer and a gentleman."

ification 1st.—"In this: That he, First Lieut. *Francis S. Davidson*, Ninth United Cavalry, while at the ranch of El Sanz, Tex., on the night of July 31, and the ng of August 1, 1875, did gamble with, winning money from, and exchanging iding money with certain enlisted men of Company G, Ninth Cavalry, at the ıg table, there being none but enlisted men and Lieutenant *Davidson*, Ninth ry, gaming at the time. This at the ranch of El Sanz, Tex., between the hours 'clock p. m., July 31, and 4 o'clock a. m., August 1, 1875."

ification 2d.—"In this: That he, First Lieut. *Francis S. Davidson*, Ninth United Cavalry, did, while in arrest in the camp of Company G, Ninth Cavalry, in the ıce of enlisted men of the command, make use of the following profane and abusive age concerning certain of his superior officers at Fort Brown, Tex., and First E. D. Dimmick, Ninth Cavalry, commanding the camp, and Second Lieut. J. ench, Ninth Cavalry, then on duty with Company G, Ninth Cavalry:—'You —— sneaks; I suppose those G— d—— idiots at Fort Brown sent you here to ı me,' or words to that effect, addressing the aforesaid remarks in a loud and rous tone to the aforesaid Lieutenant Dimmick. This at El Sanz Ranch, Cameounty, Texas, between the hours of 5 and 9 o'clock a. m., on the 1st day of st, 1875."

GE V.—"Highly insubordinate conduct, to the prejudice of good order and military discipline."

ification.—"In this: That he, First Lieut. *Francis S. Davidson*, Ninth Cavalry, in arrest in the camp of Company G, Ninth Cavalry, did, in the presence and ıg of enlisted men of the command, address in a loud and boisterous tone and ordinate manner, the following words, among others, to the commanding officer camp, First Lieut. E. D. Dimmick, Ninth Cavalry: 'I am no G— d—— boy; ay from here you G— d—— sneaks [meaning the said First Lieutenant Dim- and Second Lieut. J. H. French, Ninth Cavalry]; I suppose those G— d—— at Fort Brown sent you here to spy on me;' and conduct himself in such an cerlike and turbulent manner as to set a dangerous example to the enlisted men command. This at a camp in the field of Company G, Ninth Cavalry, about iles northeast of Brownsville, and near El Sanz Ranch, in Cameron County, , between the hours of 5 and 9 o'clock a. m., on or about the 1st day of August,

which charges and specifications the accused, First Lieut. *Francis S. Davidson*, Cavalry, pleaded "Not Guilty."

FINDING.

court having maturely considered the evidence adduced, finds the accused, Lieut. *Francis S. Davidson*, Ninth Cavalry, as follows:

CHARGE I.

Of the *Specification*, "Not Guilty."
Of the CHARGE, "Not Guilty."

CHARGE II.

Of the 1st *Specification*, "Not Guilty."
Of the 2d *Specification*, "Not Guilty."
Of the 3d *Specification*, "Not Guilty."
Of the CHARGE, "Not Guilty."

CHARGE III.

Of the *Specification*, "Guilty."
Of the CHARGE, "Guilty."

CHARGE IV.

Of the 1st *Specification*, "Guilty, excepting the words 'and exchanging or di money with,' and the words 'there being none but enlisted men and Lieutenant *son*, Ninth Cavalry, gaming at the time;' and of the excepted words, Not Guil
Of the 2d *Specification*, "Not Guilty."
Of the CHARGE, "Guilty."

CHARGE V.

Of the *Specification*, "Not Guilty."
Of the CHARGE, "Not Guilty."

SENTENCE.

And the court does therefore sentence him, First Lieut. *Francis S. Davidson*, Cavalry, "*To be dismissed the service.*"

II. In conformity with the 106th Article of War, the proceedings of the g court-martial in the foregoing case of First Lieut. *Francis S. Davidson*, Ninth Ca have been forwarded to the Secretary of War and by him submitted to the Pre

The proceedings, findings, and sentence are approved and confirmed.

III. First Lieut. *Francis S. Davidson*, Ninth Cavalry, ceases to be an officer Army from the date of this order.

By order of the Secretary of War.

E. D. TOWNSEND
Adjutant-Ge

Official:

Assistant Adjutant-General.

It will be seen that Lieutenant Davidson was found not gui charge 1 and its specifications; of the 2d charge and its specifica not guilty; of the 3d charge and its specifications, guilty; of tl specification to the 4th charge, guilty, with certain exceptions, as s above; of the 2d specification, not guilty; of the charge, guilt specification to 5th charge, not guilty, and to 5th charge, not guilt

Stripped, then, the court finds Lieutenant Davidson guilty of b of arrest, and of conduct unbecoming an officer and a gentleman. 1st specification, so far as it embraces the portions of which h found guilty, charges him with gambling with enlisted men of Com G, Ninth Cavalry, at Ranch El Sanz, Tex., July 31 and August 1,

The record shows that this case was thoroughly examined by J Advocate-General Holt; was placed before the President, and b approved (see article 106, Rules and Articles of War); that up examination by the Secretary of War and the present Judge-Adv General, the original judgment of approval was not recommended disturbed. It is true that in the last review of Judge-Advocate-Ge Dunn, he expresses the opinion that the new evidence offered "m deemed to cast a doubt, if not a reasonable doubt, upon the guilt

ıl offense of which he was convicted, viz, gambling with enlisted public." These words are carefully weighed and well guarded, hen says, "In view of this doubt, and of the testimonials produced Davidson, this bureau is now inclined to the opinion that the ɜ of the accused was probably too severe an one."
ıelps the committee very little.
udge-Advocate-General then expresses his views as follows: "He ɜred under this sentence two and a half years, and his re-appoint- the Army would not, it is believed, be prejudicial to the interests ıry justice."
ill, however, submitted to the committee proposes to authorize sident to nominate and, by and with the advice and consent of ate, appoint said Francis S. Davidson, late first lieutenant Ninth States Cavalry, *to the same grade and rank of first lieutenant held November* 1, 1875, *&c.* Nothing in the record, however much the ɜee may sympathize with Mr. Davidson, warrants the committee ımending to the Senate the passage of the bill. Wherefore the ɜee reports the same back adversely, and asks to be discharged.

THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

L, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 731.]

on Military Affairs, to whom was referred the bill (S. 731) f of Maj. Junius T. Turner, have carefully examined the ubmit the following report:

rects the Paymaster-General to pay Junius T. Turner, of D. C., late captain Third Regiment, Maryland Cavalry uch sum as shall equal the travel-pay of a captain of vol- Washington, D. C., to San Francisco, Cal., computing the ie nearest traveled route on September 7, 1865.

presented by this bill is not a new one, either before the or Congress. On March 1, 1866, Mr. Turner, through Hon. Delegate from Washington Territory, presented a claim allowances from Baltimore, Md., to San Francisco, Cal., Department, which was refused, as shown by the following

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., March 2, 1866.

ie honor to acknowledge the receipt of your letter of the 1st instant, application of Mr. J. T. Turner, late captain Third Maryland Cavalry, n from Baltimore, Md.; to San Francisco, Cal., and requesting that granted.

directed to inform you that the "California Battalion" Massachu- olunteers, of which Mr. Turner was formerly a member (on which s the transportation above), were furnished with transportation to the of Massachusetts, and were received into the United States service as olunteers, and upon expiration of their term of service were returned assachusetts) for final discharge.

ation to California they were obliged to look to the State of Massa-

herefore, cannot be granted.

very respectfully, your obedient servant,

THOS. M. VINCENT,
Assistant Adjutant-General.

NNY,
Representatives, Washington, D. C.

er 14, 1866, in the second session of the Thirty-ninth Congress, esented his petition, in the name of Capt. J. Thomas Tur- ouse of Representatives, and it was referred to the Com- ims, and on January 24, 1867, the House Committee of lischarged and the petition referred to the Committee on

Military Affairs, and on February 6, 1867, that committee was discharge and the case laid on the table.

On January 8, 1868, in the second session of the Fortieth Congres bill H. R. 1198 was introduced and referred to the Committee on Mili tary Affairs.

On February 14, 1870, in the second session of the Forty-first Congres bill H. R. 1236, for the relief of Junius T. Turner, was presented and r ferred to the Committee on Military Affairs; and no further action seem to be had either in the Fortieth or Forty-first Congresses.

On June 14, 1870, Mr. Turner again presented to the War Depart ment "a claim for the same allowances from New Orleans, La., to Wash ington, D. C.; but under an opinion of the Second Comptroller of th Treasury, dated April 17, 1871, it was rejected by the Second Audito August 18, 1871."

Thus, having twice failed before the proper department invested by law with full authority to adjudicate and pay all allowances and claims to which he was justly entitled under existing law, and also having failed in the Thirty-ninth and Fortieth and Forty-first Congresses in securing his claim, founded, as he asserts, upon a law of Congress, he declines, so far as your committee are advised, to institute his action against the United States in the Court of Claims, which has jurisdiction to hear and determine "all claims founded upon any law of Congress, or upon any regulation of an executive department, or upon any contract, expressed or implied, with the Government of the United States, and all claims which may be referred to it by either house of Congress," until barred by the limitation of six years after the claim first accrues, which was at the date of his discharge, September 7, 1865, and the limitation having begun on September 8, 1871, after the dates of the foregoing five failures.

Mr. Turner seems to have taken no further action before the depart ment or in Congress until May 25, 1874, in the first session of the Forty third Congress, when his memorial and bill S. 845 for his relief were pr sented to the Senate and referred to the Committee on Military Affair

On December 15, 1874, in the second session of the Forty-third Co gress, said bill was reported back to the Senate favorably, with the fo lowing report, to wit:

This is a bill to pay petitioner the travel-pay of a captain of volunteers from Wa ington, D. C., to San Francisco, Cal., the latter place being the place of enlistme and home, the former the place of discharge. It appears this officer was denied su travel-pay because of transfer from one regiment to another, he having been di charged from the regiment in which he enlisted to accept a commission as an offi in a Maryland regiment, the department ruling that he had, by such transfer, forfei his claim for expenses of travel. This construction is severe and inequitable, a should not be regarded as a forfeiture or a contravention of section 15, act Ja uary 29, 1813. (See extract of act accompanying report.) This officer is entitled t the travel-pay claimed, and the committee recommend passage of bill.

Section 15, act approved January 29, 1813, reads as follows, viz:

"That whenever any officer or soldier shall be discharged from the service, exce by way of punishment for an offense, he shall be allowed his pay and rations, or a equivalent in money, for such term of time as shall be sufficient for him to travel fro the place of discharge to the place of his residence, computing at the rate of twen miles to a day."

Section 5, act July 22, 1861, reads as follows, viz:

"*And be it enacted*, That the officers, non-commissioned officers, and privates, orga ized as above set forth, shall, in all respects, be placed on the footing, as to pay a allowances, of similar corps of the Regular Army."

The above-recited law stands unrepealed upon the statutes, and remains in full fo and effect.

No further action seems to have been taken in this Congress.

On December 9, 1875, in the first session of the Forty-fourth Congres

presented his petition in the Senate, which was referred to the ee on Military Affairs, and on March 6, 1876, Mr. Spencer, from mittee, reported bill S. 561 for his relief favorably, which bill al with the present bill, which was passed by the Senate and ntly by the House and sent to the President for his approval, vetoed by the President, as will more fully appear by the fol- essage and accompanying papers, to wit:

te of the United States:

easons presented in the accompanying communications, submitted by the f War, I have the honor to return herewith, without my approval, Senate , entitled "An act for the relief of Major Junius T. Turner."

U. S. GRANT.

VE MANSION, *August* 15, 1876.

WAR DEPARTMENT,
Washington City, August 14, 1876.

ve the honor to return Senate bill 561, "for the relief of Major Junius T. ith copy of the report of the Adjutant-General of this date, stating objec- approval of the bill.

respectfully, your obedient servant,

J. D. CAMERON,
Secretary of War.

SIDENT.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
August 14, 1876.

ully returned to the Secretary of War.

wing objections exist to this bill becoming a law:

as passed both houses, awards "such sum as shall equal the travel-pay of of volunteers from Washington, District of Columbia, to San Francisco, Cal- hereas at the date of the discharge of Junius T. Turner he was a private of E, California Battalion Second Massachusetts Cavalry, and not a commis- er.

m this, under the established regulations and rulings of the Treasury and tments, "a soldier, on receiving and accepting a commission as a company ot entitled to traveling allowances." A departure from this rule, heretofore , would open up a very wide field for similar claims.

Junius T. Turner, Second Massachusetts Cavalry, was discharged, by way [arch 28, 1864, to accept promotion as second lieutenant Third Maryland nd was mustered as of that grade in said regiment March 29, 1864.

honorably discharged September 7, 1865, as captain Third Maryland Cav- forth in the inclosed official copy of a letter from this office, dated June 7, n. C. D. MacDougall, M. C., of Committee on Military Affairs, House of tives.

E. D. TOWNSEND,
Adjutant-General.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, June 7, 1876.

reply to your letter of the 26th ultimo, requesting a statement of the mili- y of Capt. Junius T. Turner, I have the honor to inform you that J. T. s enlisted as private Company E, California Battalion Second Massachu- lry, and was honorably discharged at Vienna, Va., March 28, 1864, to ac- mission in the Third Maryland Cavalry. As this discharge is the basis of or travel-pay from Vienna, Va., to San Francisco, Cal., I have to state that ant, as well as the other members of the California Battalion, was received ilitary service of the United States on the written agreement of the gov- [assachusetts that transportation would be furnished them by the State, pplicant has to do with it as regards his claim, and not with the United f this fact Captain Turner was, through Hon. A. A. Denny, Delegate, n Territory, duly notified by letter from this office dated March 2, 1866.

by House resolution 4168, Forty-third Congress, second session, it was pro-

posed to pay travel-pay, &c., to the members of the California Battalion, but it is believed the bill did not become a law.

The applicant was mustered in as second lieutenant Third Maryland Cavalry, to date March 29, 1864; as captain, April 14, 1865; and was honorably discharged September 7, 1865, on account of physical disability and by reason of his services being no longer required. He has, no doubt, been paid the travel-pay and allowances incident to that discharge.

Very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

Hon. CLINTON D. MACDOUGALL, M. C.,
Of Committee on Military Affairs, House of Representatives.

Which message, with said bill, was referred to the Committee on Military Affairs.

On January 15, 1877, the President sent the following message to the Senate:

To the Senate of the United States:

On the eve of the adjournment of the last session of Congress I returned to the Senate bill No 561, entitled "An act for the relief of Maj. Junius T. Turner," with my objections to its becoming a law. I now desire to withdraw those objections, as I am satisfied they were made under a misapprehension of the facts.

U. S. GRANT.

EXECUTIVE MANSION, *January* 12, 1877.

The President did not advise the Senate in what respect he misapprehended the facts of this case.

On February 13, 1877, the Committee on Military Affairs reported the bill back to the Senate, recommending that the bill do pass, the objections of the President to the contrary notwithstanding. No further action was had in relation thereto.

In the Forty-fifth Congress, second session, January 14, 1878, bill H. R. 2461 was introduced, for the relief of Mr. Turner, and referred to the Committee on Military Affairs, and on April 12, 1878, the said committee reported adversely, recommending that the bill do not pass, and the same was laid on the table.

In the present Congress this case was again presented in the Senate. Your committee carefully examined the whole case, and referred the same to the Secretary of War for full information, and received from him the following communications, to wit:

WAR DEPARTMENT,
Washington City, January 7, 1880.

SIR: I have the honor to return herewith the memorial of Junius T. Turner, late captain Third Maryland Cavalry, and Senate bill 731, granting him the travel-pay of a captain of volunteers from Washington, D. C., to San Francisco, received with your letter of the 22d ultimo, and to transmit for your information the inclosed report of the Adjutant-General and accompanying papers, which contain the views of this department with regard to extending the relief proposed, and also, it is believed, answers to the several inquiries made in your letter.

Very respectfully, your obedient servant,

ALX. RAMSEY,
Secretary of War.

Hon. F. M. COCKRELL,
Committee on Military Affairs, United States Senate.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, January 6, 1880.

SIR: In answer to your reference of the letter of Hon. F. M. Cockrell, United States Senator, of Committee on Military Affairs (transmitting bill S. 731, Forty-sixth Congress, second session, "for the relief of Maj. Junius T. Turner"), calling for certain in-

formation relating to the latter's military record, the action heretofore had in the case, and the merits of the claim, I have the honor to report as follows:

Junius T. Turner was enlisted January 27, 1863, at San Francisco, Cal., as a private of Company E, California Battalion of the Second Massachusetts Cavalry, and was discharged as such at Washington, D. C., March 28, 1864, to enable him to accept a commission as an officer of Maryland volunteers. On the date of his discharge his command was stationed at or near Vienna, Va.

On the 11th of July, 1864, more than three months subsequent to his discharge, he reported to his new regiment, the Third Maryland Cavalry, for duty, on which date he was mustered in as second lieutenant in that regiment, although it would seem that the muster-in was made to date back to March 29, 1864. On the 14th of April, 1865, he was mustered in as captain, and on August 14, 1865, granted a leave of absence, during which, and while in this city, he made application for his discharge, on account of physical disability, which discharge was granted him on September 7, 1865.

March 1, 1866, Mr. Turner, through Hon. A. A. Denny, delegate, Washington Territory, presented a claim for travel allowances from *Baltimore, Md., to San Francisco, Cal.*, but for the reasons set forth in a letter from this office, dated March 2, 1866, copy herewith, favorable action was not had.

June 14, 1870, he presented a claim for the same allowances from *New Orleans, La., to Washington, D. C.*, but, under an opinion of the Second Comptroller of the Treasury, dated April 17, 1871, it was rejected by the Second Auditor, August 18, 1871.

Failing in these instances, Mr. Turner then appealed to Congress for relief. A bill for his relief was vetoed by the Executive, August 15, 1876, on objections set forth by the Secretary of War in his letter to the President dated August 14, 1876.

Subsequently, a bill (H. R. 2461, Forty-fifth Congress, second session) looking to the relief of Captain Turner, was referred to this office by Hon. E. S. Bragg, of House Committee on Military Affairs, and a report embracing the facts in the case forwarded to that gentleman, at his request, by letter dated April 3, 1878 (copy herewith).

As regards the bill (S. 731, Forty-sixth Congress, second session) now under consideration, it believed that the foregoing and the additional facts enumerated in the inclosed copy of a letter to the Secretary of War, dated January 22, 1877, will meet the several inquiries of the chairman of the Committee on Military Affairs of the Senate.

I am, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

The Hon. SECRETARY OF WAR.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., January 22, 1877.

SIR: In answer to your reference of the request of the Committee on Military Affairs, United States Senate, for the military history of Capt. Junius T. Turner, late of the Third Maryland Cavalry, I have the honor to report that Junius T. Turner was enlisted January 27, 1863, at San Francisco, Cal., as private Company E, California Battalion Second Massachusetts Cavalry, and, at the request of the governor of Maryland, was honorably discharged, as a private soldier, March 28, 1864, at Vienna, Va.

The discharge was granted in order that Private Turner should be rendered eligible to accept a commission as an officer of volunteers.

He was mustered in as second lieutenant Third Maryland Cavalry, to date March 29, 1864; made application for discharge on account of physical disability August 30, 1865; and was honorably discharged, on his application, September 7, 1865.

The act (S. 561, Forty-fourth Congress, first session) awarding him travel-pay as a captain of cavalry was vetoed by the President in August, 1876, on the report of the Adjutant-General of the Army, dated August 14, 1876, as follows:

"The following objections exist to the bill becoming a law: The bill as passed both houses awards 'such sum as shall equal the travel-pay of a captain of volunteers from Washington, District of Columbia, to San Francisco, California,' whereas at the date of the discharge of Junius T. Turner he was a private of Company E, California Battalion Second Massachusetts Cavalry, and not a commissioned officer. Aside from this, under the established regulations and rulings of the Treasury and War Departments, 'a soldier on receiving and accepting a commission as a company officer is not entitled to traveling allowances.' A departure from this rule, heretofore adhered to, would open a wide field for similar claims. Private Junius T. Turner, Second Massachusetts Cavalry, was discharged by way of favor March 28, 1864, to accept promotion as second lieutenant Third Maryland Cavalry, and was mustered as of that grade in said regiment March 29, 1864. He was honorably discharged September 7, 1865, as captain Third Maryland Cavalry, as set forth in the inclosed official copy of a letter from this office dated June 7, 1876, to Hon. C. D. MacDougall, M. C., of Committee on Military Affairs, House of Representatives."

Did existing laws allow travel-pay to officers and enlisted men discharged on tender of resignation or by way of favor, Private Turner would only be entitled to travel-pay on his "final statements" and discharge as private of Company E, Second Massachusetts Cavalry, and not on his discharge as captain Third Maryland Volunteers. (In this connection see proposed bill H. R. 4168, Forty-third Congress, second session).

Further, traveling allowances are refused "in all cases of discharge through application of the officer or on tender of resignation," by reason of prohibitory rules of immemorial usage and practice in this office and with the Treasury accounting officers. This prohibition applies to all officers and soldiers discharged from service on their own request and for their own private benefit.

In regard to the general subject of travel allowances, the following is submitted:

I. The fifth section of the act approved July 22, 1861, places the volunteer officer "on the footing as to pay and allowances of similar corps in the Regular Army."

General Orders, No. 43, of 1861, copy herewith, promulgated the regulations fixing the measure of travel allowances to volunteers. That measure is the one fixed by law for regular officers. The general orders (No. 43) cited contemplated that officers to secure travel allowances on discharge should come in with and remain in service until the muster out of their commands, or until the act of the United States, in that way or otherwise, had intimated to the officer that his services were no longer required. In other words, only the officers coming into service with the regiment were secured allowances to the place of muster, and those going out with it were secured similar allowances to the place of enrollment.

Officers entering the service after the muster in of the command forfeited the allowances, and officers leaving the service before the muster out of their commands did the same. The government, as an indulgence, permitted officers to honorably leave the service by resignation while the command remained in; but by the act it could not be said that the services of the officer were no longer required, for another officer became necessary to replace the one discharged, and the officer making the replacement would be—provided he remained till the muster-out of the command—the one to receive the allowances provided on discharge.

It will thus be seen that the ruling as indicated looked to granting the traveling allowances to but one set of officers—those who properly belonged to the command at the date of its final discharge. A different one would have made the public interests subordinate to the indulgence of individuals and for individual advantage and benefit.

Should a bill be passed for the relief of Mr. Turner, it will be a precedent for thousands of claims on Congress for similar relief.

The records of this office indicate that upwards of 40,000 officers were discharged on tender of resignation, and, as the average to each officer for the travel allowances would be at least $150, it would require $6,000,000 to settle this class of claims. The amount necessary to settle those claims and those of the enlisted men discharged for promotion, or by way of favor, would necessarily augment this sum to millions more.

II. The refusal to grant travel allowances in cases of discharge and resignation has been uniformly adhered to by the War Department.

As a general thing during the late war, an organization leaving the service by muster-out was furnished transportation in kind by the United States, so that no money allowances for travel fell to the officers mustered out with it, and thus holding, evident injustice would have been done the officers mustered out with the command, had the War Department sanctioned a claim for travel allowances to any one officer leaving the regiment before its muster out; such action would, in effect, have given the officer whose convenience was consulted, and who was thus relieved from all care of the enlisted men and property of the command, more remuneration than was allowed the officer to whom all that responsibility attached.

The rulings of the War Department, therefore, have been legal, have looked to the economy of the public service, and, withal, have been just to the individual and the government.

To more particularly illustrate in the case of Turner: He forfeited travel allowances when discharged March 28, 1864, as private California Battalion Second Massachusetts Cavalry. Had he continued with that organization he would, on its muster-out, have received what was provided for the other members.

He forfeited travel allowances when discharged on his own application from the Third Maryland Cavalry, September 7, 1865. Had he remained in service with it until its muster-out, he would have received (as provided for the other members) from Vienna, Va., where mustered in, to Baltimore, where disbanded.

And his case should so rest and special legislation not be granted. To depart in any case from what is allowed by the general laws is sure to bring up thousands of individual claims, always to the prejudice of the interests of the United States and without right or equity being in favor of the individual.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

The Hon. SECRETARY OF WAR.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., April 3, 1878.

SIR: In reply to your letter of the 23d ultimo, requesting a report on proposed bill . R. 2461, Forty-fifth Congress, second session, "for the relief of Maj. Junius T. urner," late captain Third Maryland Cavalry, I have the honor to state that the aimant was enlisted January 27, 1863, at San Francisco, Cal., for the Second Massa- usetts Cavalry, and was discharged as private of that regiment March 28, 1863, at 'ashington, D. C., by request of the governor of Maryland.

July 11, 1864, he re-entered service, and was mustered in on that date at New rleans, La., second lieutenant Third Maryland Cavalry, said muster to date from arch 29, 1864.

April 14, 1865, he was mustered as captain same regiment; August 14, 1865, granted ave of absence; and, while absent and in this city, was mustered out and honorably ischarged, at his own request, on September 7, 1865.

March 1, 1866, Mr. Turner, through Hon. A. A. Denny, Delegate, Washington Terri- ory, presented a claim for travel allowances from Baltimore, Md., to San Francisco; ut it was rejected by this office March 2, 1866, for reasons enumerated in letter of that ate to Hon. Mr. Denny (official copy herewith).

June 14, 1870, he presented a claim for travel allowances, as captain Third Maryland 'olunteers, from New Orleans, La., to Washington, D. C.; but under an opinion of the econd Comptroller of the Treasury, dated August 17, 1871, it was rejected by the econd Auditor August 18, 1871.

Failing in these instances, Mr. Turner claims, through Congress, travel allowances, s captain Third Maryland Cavalry, from San Francisco to Washington; but, as he ras not enrolled or mustered into that regiment at San Francisco, Cal., he is not, s captain Third Maryland Cavalry, entitled to said allowances under existing laws.

Under an opinion of the Second Comptroller (Digest of 1869, par. 2148), "discharged fficers and men of the California Battalion, attached to the Second Massachusetts 'alvary Regiment, are legally entitled to travel-pay under the laws of January 29, 813, section 15 (2 Stat., 796), and July 21, 1861, section 5 (12 Stat., 269), from the lace of their discharge to San Francisco, Cal., the place of their enrollment."

As Mr. Turner was enlisted a private of that battalion (Company E, Second Massa- husetts Cavalry) at San Francisco, and discharged in that grade at Washington 'ity, his claim should be as private of that regiment, and not as captain of the Mary- and Regiment; but even such claim would, under the decisions of the accounting offi- ers of the Treasury, be barred, for the reason that the soldier was discharged by way f favor, and prior to the expiration of his term of enlistment.

It is proper to add that Mr. Turner was regularly discharged from the Second Mass- chusetts Cavalry, not transferred, as is alleged by him, and did not join the Third Maryland Cavalry until more than three months subsequent to his discharge from he Massachusetts Regiment.

A bill similar to the one now under consideration was vetoed by the Executive August 15, 1876, on the objections set forth by the Secretary of War in his letter of August 14, 1876 (official copy herewith).

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

Hon. EDWARD S. BRAGG,
Of Committee on Mititary Affairs, House of Representatives.

Your committee, after a careful reconsideration of all the facts and law touching this claim, find that if, as has been claimed and asserted by Major Turner, the laws existing at the date of his discharge on September 7, 1865, justly entitled him to the allowances claimed, he had a claim founded upon a law of Congress, and the Court of Claims had jurisdiction to hear and determine the same according to such law, and that he had six years in which to present his claim to said court; and that his claim was not barred in said court by limitation until long after it had been repeatedly rejected by the proper department and repeatedly refused to be favorably considered by Congress; and that, having thus waived the remedies provided by law, Congress should not favorably consider his claim.

In the second place, it appears from the evidence contained in the official records in the said Adjutant-General's office, that the State of Massachusetts, and not the Government of the United States, paid for

the transportation of recruits for the Second Massachusetts Cavalry from San Francisco to the said regiment. The recruits were used to fill the quota of Massachusetts, and they were received by the United States as Massachusetts troops from Massachusetts, and when the regiment was mustered out it was furnished only transportation to Massachusetts, the State from which it was received, leaving the State of Massachusetts to send her volunteers to their several places of enlistment, if such was the contract of enlistment.

This, it seems to the committee, is another full answer to this claim; for surely it is hardly to be expected that the United States will pay the transportation bills of Massachusetts incurred by her in filling her quota by volunteers from the Pacific coast.

And, in the third place, your committee approve the action of the War Department as correct under the laws and regulations governing the particular facts of this case.

Your committee, therefore, recommend that the claim of Maj. Junius T. Turner, as presented in this bill, be not allowed, and that said bill be indefinitely postponed.

O

TH CONGRESS, 2d Session. | SENATE. | REPORT No. 79.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

:. LOGAN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 198.]

e Committee on Military Affairs, to whom was referred the bill (S. 198) for the relief of Capt. Bird L. Fletcher, beg leave to report:

That they find Captain Fletcher was dismissed the service by court-rtial, duly organized, for contracting and neglecting to pay various ›ts, &c. The court seems to have acted properly on the testimony, l no good cause has been shown to your committee that seems to jus- the restoration of said Captain Fletcher to the retired list of the ny. Your committee therefore ask to be discharged from the further sideration of said bill, and recommend its indefinite postponement.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 80.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

[r. GROOME, from the Committee on Pensions, submitted the following

REPORT:

he Committee on Pensions, to whom was referred the petition of Mrs. Thomas Hendrickson, widow of Thomas Hendrickson, late major in the United States Army, respectfully report:

That as it appears from the papers filed with the committee that no plication has been made to the Bureau of Pensions, and as a rule of e committee requires that such application be made and the decision the Commissioner had before taking action, the committee ask to be ieved from the further consideration of the petition, and that the me be referred to the Commissioner of Pensions.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 81.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions having examined the petition of Hannah L. Stearns, widow of Benjamin F. Stearns, who was employed as a teamster in the war of 1812, find that the claim for pension was rejected by the Commissioner of Pensions because the law does not authorize the payment of pensions except to those in the military or naval service of the government. Teamsters, being civil employés, are not pensionable. Believing this decision of the Commissioner of Pensions to be correct, the committee ask that the claim be indefinitely postponed.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 82.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of certain citizens of Carbon County, Pennsylvania, asking for the passage of a special act granting a pension to Aaron Snyder, late private in Company A, Two hundred and second Regiment Pennsylvania Volunteers, find, on examination of the papers in the case, that the soldier was enlisted August 18, 1864, and discharged August 3, 1865, by reason of the termination of the war; that no application for pension was made until nearly twelve years thereafter, to wit, March 27, 1877; that no disability was known to exist at the time of his discharge, and no satisfactory evidence has been furnished showing the existence of the alleged disability (rheumatism) during the time of service. Among the petitioners, however, are the first and second lieutenants of Company A, Two hundred and second Regiment Pennsylvania Volunteers, the company to which Snyder belonged; but they do not establish the fact that the disability existed while in the service or was incurred in the line of duty, but only that Snyder is now much disabled and in a suffering condition. The committee is of opinion that sufficient evidence has not been furnished to establish the origin and duration of the disease, or to connect it with his service in the Army, and the long delay in making application for a pension is well calculated to produce the impression that the disease from which the said Snyder now suffers was not contracted in the military service or in the line of duty.

The committee therefore ask to be relieved from the further consideration of the application, and that the same may be indefinitely postponed.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 83.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to which was referred the petition of Isaac Vansant, private in Captain Chaplin's company of South Carolina militia, war of 1812, asking an increase of pension, finds that the pensioner is now in receipt of a pension of $8 per month, which, being the full amount authorized by law, there exists no authority for granting a larger sum. The committee, therefore, ask that the application be indefinitely postponed.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 84.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of James Preston, praying to have his name placed on the pension-roll, have examined the same and the papers therewith, and report as follows:

The claimant made application to the Pension Bureau some five years ago for a pension for disability resulting from wounds received in the service in the line of duty. Much time was consumed in procuring testimony in the case, and at last evidence was submitted which, if genuine, is probably sufficient to support his claim. But suspicion having been aroused as to the genuineness of the evidence submitted, an investigation was made by the proper officers of the Pension Bureau resulting in conclusive proof that much of the most important evidence in the case was false and forged. The claimant was prosecuted in the United States court for forgery, convicted, and sentenced to imprisonment in the penitentiary.

Your committee ask to be discharged from further consideration of the petition.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 85.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

Mr. RANDOLPH, from the Committee on Military Affairs, submitted the following

REPORT:

The Committee on Military Affairs, to whom was referred the memorial of the legislative assembly of the Territory of Montana, in relation to military telegraph, and praying the construction of a telegraph line from. Fort Ellis to Fort Buford therein, beg leave to submit the following report:

The memorialists ask authority for the construction of a line of telegraph from Fort Ellis, through Helena, to Forts Logan, Shaw, Benton, and Assinaboine, Wolf Point, Fort Peck Agency, and Fort Buford; also a branch of said telegraph, by way of Virginia City, Branch City, Big Hole Prairie, Fort Missoula, and Spokane Bridge, to Fort Walla Walla.

The memorial was referred to the Committee on Military Affairs March 24, 1879. With the view of obtaining such information as the War Department possessed in relation thereto, the memorial was referred to the Secretary of War, who submitted the following opinion from the General of the Army:

HEADQUARTERS OF THE ARMY,
Washington, May 20, 1879.

Respectfully returned to the Hon. Secretary of War, reporting that the lines of telegraph herein indicated would be valuable to the military interests of the United States, and especially so to the civil and commercial interests; but the distance from Fort Ellis, Mont., around by Helena, Benton, Assinaboine, Peck, Buford, to Bismarck cannot be less than 1,200 miles; then from Helena to Missoula, Cœur d'Alêna, Spokane, &c., to Walla Walla, would be about 900 miles; total, 2,100 miles. This is more than would be justified by the appropriation of March 3, 1879.

W. T. SHERMAN, *General.*

The memorial fails to set forth the estimated cost of the telegraph lines desired; and as the General of the Army states that the expense of the work will be greater than would be justified by the appropriation of March 3, 1879, your committee ask to be discharged from the further consideration of the subject.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 86.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

The Committee on Military Affairs, to which was referred the joint memorial of the Nebraska legislature, approved February 24, 1879, praying for the establishment of a military post, have duly considered the same, and submit the following report:

Your committee, on December 9, 1879, referred said joint resolution to the Secretary of War for information and report, and received from him the following communications, to wit:

WAR DEPARTMENT,
Washington City, December 18, 1879.

SIR: In reply to your letter of the 9th instant, transmitting copy of resolutions of the general assembly of the State of Nebraska, passed March 3, 1879, recommending the establishment of a military post east of Fort Robinson, on the Niobrara River, I have the honor to invite your attention to the inclosed report of the Adjutant-General, dated the 15th instant, which contains the views of this department touching the matter.

Very respectfully, your obedient servant,

ALEX. RAMSEY,
Secretary of War.

Hon. F. M. COCKRELL,
Committee on Military Affairs, United States Senate.

P. S.—The inclosure to your letter is herewith returned.

ADJUTANT-GENERAL'S OFFICE,
Washington, December 15, 1879.

To the Hon. the SECRETARY OF WAR:

SIR: I have the honor to return herewith communication of December 9, 1879, from Hon. F. M. Cockrell, of the Senate Military Committee, inclosing joint resolution of the Nebraska legislature, approved February 24, 1879, relative to the establishment of a military post on the Niobrara River, for the protection of settlers, and respectfully to invite attention to the following provision of the Army appropriation act, approved June 23, 1879, viz:

"For the construction of a military post near the Niobrara River, in Northern Nebraska or Dakota, at a point to be selected by the General of the Army, with the approval of the Secretary of War, fifty thousand dollars, or so much thereof as may be necessary."

A site for the new post, to be called Fort Niobrara, has been selected in section 27, township 34 north, range 27 west, of the sixth principal meridian, on the south bank of the Niobrara River, in Nebraska, and a military reservation for the purposes of the post has been surveyed and duly declared by the President under date of December 10, 1879.

In forwarding the estimates for building Fort Niobrara, September 20, 1879, Lieutenant-General Sheridan reported as follows:

"Nothing will be done toward building the post this fall, but it is proposed to begin work on it as early as practicable in the spring."

The appropriation for this post is understood to have been based in part upon the joint resolution which is the subject of the present inquiry, and the post will, it is believed, afford the desired protection to settlers in that portion of Nebraska.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

From the letter of the Adjutant-General it will be seen that by the Army appropriation act of June 23, 1879, and the subsequent action of the War Department thereunder, ample provision has been made for the objects sought by the joint resolution.

Your committee therefore recommend that no further action is necessary, and that said joint resolution be reported back to the Senate with the recommendation that your committee be discharged from its further consideration.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 87.

IN THE SENATE OF THE UNITED STATES.

JANUARY 12, 1880.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

The Committee on Military Affairs, to which was referred the memorial of Alexander S. Brownlow, late a private in Company I, Eighth Regiment Tennessee Cavalry Volunteers, with the accompanying papers, have duly considered the same, and submit the following report:

The memorial of claimant was verified by his affidavit May 6, 1879. The memorialist states in substance that in the fall of 1863 he joined Paton's regiment, and was mustered in at Greeneville, Tenn., and about April 1, 1865, was sent from Knoxville on the Stoneman raid into Virginia and North Carolina, and that in North Carolina Lieutenant Brown, commanding his company, detailed him to lead a colt some two or three years old, and gave him a mare in a broken down-condition to ride; that the mare gave down and the colt stuck in the mud and he was left behind, and that on the next day he caught up with his command, and Col. John K. Miller, commanding the troops, put him on another broken-down horse, on which he rode about half a mile, when the horse stopped still in the road and he pulled off the bridle, and, overtaking Colonel Miller, asked him for another horse, when Colonel Miller said that he could do nothing for him, and he then told Colonel Miller that he would go back to camp, and did do so; and that Lieutenant Brown and Captain Kindrick, his company officers, were not on friendly terms with him. He prays Congress to place him on the rolls. Accompanying the memorial are the affidavits of Nelson McLaughlin, late captain of Company N, Eighth Regiment, Tennessee Cavalry, dated April 8, 1879, and of Alfred Astep, of Captain McFall's company, same regiment, dated May 3, 1879, and of Josiel Onkst, dated April 30, 1879. These three affidavits state in substance that about April 10, 1865, while on the Stoneman raid, they saw said Brownlow dismounted and having a bridle in his hand trying to rejoin his command. Captain McLaughlin and Mr. Onkst both state that Mr. Brownlow started with the command on the raid, and Mr. Onkst states that he heard Brownlow ask Col. John K. Miller, commanding the brigade, what he must do, and that Colonel Miller told him that he must do the best he could; and that about two weeks after their return from the raid he saw Brownlow in camp at Knoxville, Tenn. This was all the evidence presented to your committee.

Your committee on December 8, 1879, wrote to the Secretary of War for the military history of said Brownlow and for all affidavits and testimonials on file in the department touching his case, and received

through the Secretary of War the following communication from the Adjutant-General's Office, to wit:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., December 16, 1879.

SIR: I have the honor to acknowledge the receipt of your letter of the 8th day of December, 1879, requesting a "statement of service" of Alexander S. Brownlow. The following information has been obtained from the files of this office, and is respectfully furnished in reply to your inquiry:

It appears from the rolls on file in this office that Alexander S. Brownlow was enrolled on the 15th day of September, 1863, at Jonesborough, Tenn., in Company I Eighth Regiment of Tennessee Cavalry Volunteers, to serve three years or during the war, and mustered into service as a private on the 14th day of November, 1863, at Mossy Creek, in Company I, Eighth Regiment of Tennessee Cavalry Volunteers, to serve three years or during the war. On the muster-rolls of Company I of that regiment, from enrollment to October 31, 1864, he is reported present November and December, 1864, missing in action; January and February, 1865, absent without leave; March and April, 1865, absent, without remark; May and June, 1865, present. Roll for July and August, 1865, is not on file. Muster-out roll of company, dated September 11, 1865, reports him deserted August 2, 1865, at Sweetwater, Tenn. No later record.

I am, sir, very respectfully, your obedient servant,

S. N. BENJAMIN,
Assistant Adjutant-General.

To Hon. F. M. COCKRELL,
Committee on Military Affairs, United States Senate.

Accompanying which were the following affidavits and papers, to wit: a letter from Alexander S. Brownlow to E. D. Townsend, dated Jonesborough, October 27, 1879, and verified by affidavit November 3, 1879, and an affidavit of Lewis A. Markwood, late second lieutenant Company H, Eighth Tennessee Cavalry Regiment, dated November 10, 1879; and a letter dated July 15, 1865, addressed to Maj. John M. Sawyers, and signed by some twelve different persons, including Lieutenant Markwood. Mr. Brownlow in his said letter repeats, in substance, the statements in his memorial, and gives his military experience more in detail. As additional facts not stated in his memorial, he states that he was ordered on what was called "the salt-works raid," that his horse gave way, and that he bought and paid for another with his own money, and that after getting back to camp "Captain Kindrick, under whom he served, and William Suttles, a private in his company, stole his horse and sold it to the government," and that he whipped Suttles, and that made Kindrick an enemy; and that he got back to camp in about two weeks after the Stoneman raid, and that Lieutenant Brown was the cause of his being marked a deserter, because he could not get his colt into camp and wanted him to pay for the colt. He says, "I served my time out. I was mustered in for three years or during the war. Lee surrendered before I was left by my command. I am an old man, and lost my health on that raid, and was treated like a dog by unprincipled officers. I do hope you will remove this stain off of my character as a deserter." Lewis A. Markwood states that on the Stoneman raid Brownlow was placed on detached service by Lieutenant Brown, then in command of Company I, and that after their return from the raid, about the last of May, 1865, having lost his horse, he was, to the certain knowledge of affiant, wrongfully reported as a deserter, and that Brownlow having been detached from the regiment by his company commander, and the regiment having afterward made a raid into South Carolina and Georgia, it was impossible for him to have rejoined his command until it returned into camp.

The letter of July 15, 1865, to Major Sawyers is simply a certificate that on the Stoneman raid Lieutenant Brown detailed Brownlow to lea

is horse, and relieved Brownlow from all other duty, and turned over is gun and ammunition, and that since returning to camp Lieutenant Brown has caused Captain Kindrick to charge Brownlow with the same, nd they protest they do not think such treatment right, and beg Major awyers to relieve him, as he is a poor man, and needs his money to support his family.

The foregoing is in brief the substance of all the evidence presented o or obtained by your committee. Your committee find, from the military history of Brownlow furnished by the Adjutant-General, that during the months of November and December, 1864, Brownlow is reported "Missing in action"; and for January and February, 1865, "Absent without leave"; and for March and April, 1865, "Absent"; and for May and June, 1865, "Present"; no report for July and August, 1865; and that on the muster-out roll of his company, dated September 11, 1865, he is reported "Deserted August 2, 1865, at Sweetwater, Tenn." The evidence submitted might partially explain the absence without leave for a portion of the time—for March and April, 1865—but the gravest charge—"Deserted August 2, 1865, at Sweetwater, Tenn."—is wholly unexplained. For nearly fourteen years Mr. Brownlow has quietly and uncomplainingly rested under these charges of absence without leave and desertion, without, so far as your committee can ascertain, making any effort to remove the stain. Suddenly, in 1879, he becomes restless under these charges, and seeks to have them removed. Why this action has been postponed so long remains unexplained. There is, no doubt, a persuasive reason for wanting this action now; pension, back pay, bounty, &c., so liberally provided by a generous government for its faithful soldiers, are, doubtless, the objects sought. Shall the government make no distinctions or discriminations between those of its soldiers who served faithfully, constantly, and obediently at all times and those who shirked and evaded duty, were disobedient, absent without leave, and finally deserted? In consideration of the age and condition of the memorialist, your committee have given his case a thorough and patient investigation, and, would the evidence and the records justify such action, they would gladly recommend the removal of these stains upon his character as a soldier. Were your committee to do so in this case, they would feel constrained to recommend that all charges of absence without leave and desertion found upon the records of the War Department be removed, and that hereafter no distinctions be made between the faithful and unfaithful.

Your committee therefore report the memorial back to the Senate, with the recommendation that the claim and relief asked be not allowed, and your committee be discharged from its further consideration.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 88.

IN THE SENATE OF THE UNITED STATES.

JANUARY 13, 1880.—Ordered to be printed.

Mr. WALLACE, from the Committee on Finance, submitted the following

REPORT:

[To accompany bill S. 1004.]

The Committee on Finance, to whom was referred the petition of Lamsford B. Yondell and others, sureties on the bond of Henry S. Norvell, late collector of internal revenue for the second district of Tennessee, praying to be relieved from liabilities as such sureties, respectfully report:

That Henry S. Norvell was appointed collector for the old second district of Tennessee on March 26, 1864, and gave bond in $100,000, with Woods, Elliston, Claiborne, and Castleman as sureties. This district included some thirty counties of Middle Tennessee. Norvell filled this office until June 30, 1866, when the district was subdivided and Norvell appointed collector of the fifth district. He gave a new bond for that position and held the office until the expiration of his term, and has settled with the government for all moneys due it for the said last term.

On June 1, 1876, the government brought suit upon the bond given for the old second district, and claimed a balance of $95,442.32. Norvell, the collector, died in 1874, Elliston in 1870, Woods in 1875, and Claiborne in 1876. The executors of the sureties and of Norvell were sued. All of the parties are insolvent save the estate of Elliston, whose heirs are the petitioners.

When the old second district was subdivided, Norvell was required to certify to the new collectors the balances uncollected. This was done, but he was not credited with these amounts save as portions thereof were collected. The whole balance now claimed from the sureties of Norvell is $42,528.79. The Commissioner of Internal Revenue advises your committee that it is believed that the larger portion of this balance represents uncollected taxes which probably could have been abated as uncollectable if proper evidence had been presented to the office at the time, but that it is now impossible to perfect such evidence as will enable the sureties of Collector Norvell to obtain credit according to law and regulations of the department.

It appears that during the proper time for the collection of these taxes it was impossible for the collector to reach the locality, owing to the occupation of the largest part of the district by the forces of the enemy, and that these taxes never were in fact collected or received by the collector, Norvell.

Under these circumstances, and in view of the great lapse of time from the date of the bond to the bringing of the suit by the government, your committee report that the prayer of the petitioner should be granted, and report to the Senate herewith a bill for that purpose.

O

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 89.

IN THE SENATE OF THE UNITED STATES.

JANUARY 13, 1880.—Ordered to be printed.

. PLUMB, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany bill S. 619.]

e Committee on Public Lands, to whom was referred the bill (S. 619) "For the relief of certain actual settlers on the Kansas trust and diminished-reserve lands in the State of Kansas," respectfully report:

That the original draught of this bill was sent to the chairman of the enate Committee on Public Lands, by the Secretary of the Interior, nder date of May 19, 1879, and his letter of transmissal, together with report of the Commissioner of Indian Affairs on the same subject and f like date, and the draught in question were referred to this committee. The necessity of the proposed legislation is clearly set forth in said letter and report, to which reference is here made. The simple object is to protect a small proportion of actual settlers on the Kansas trust and diminished-reserve lands in rights which have been expressly recognized by act of Congress, but which they have been prevented from perfecting by circumstances entirely beyond their control. Many of these settlers have made partial payments upon their lands, as well as valuable improvements, and have only been prevented from perfecting their titles by incongruous legislation. The bill simply allows these settlers to complete their titles under the new appraisement authorized by the act of 1876, and the committee agree with the Secretary and the Commissioner that "ordinary good faith" requires that they should have this right. The committee therefore recommend the passage of the bill.

DEPARTMENT OF THE INTERIOR,
Washington, May 19, 1879.

Hon. J. E. McDONALD,
Chairman Committee on Public Lands, United States Senate:

SIR: I have the honor to submit for the consideration of Congress, with a recommendation for immediate action thereon, a draft of a bill for the relief of certain actual settlers upon the Kansas trust and diminished-reserve Indian lands in Kansas, who, by reason of failure to secure the assent of the Indians to the reappraisement provided for in the act of July 5, 1876 [Stats. 19, p. 74], have been unable to bring themselves within the provisions of section one of said act, and have thus been deprived of its manifestly intended benefits.

The names and improvements of these settlers are all described in the documents referred to in the act, and have been both by that and the previous statute of June 23, 1874 [Stats. 18, p. 272], expressly recognized by Congress. Many of them have actually made large payments under the original act, and ordinary good faith now requires that they be permitted to complete their titles under the new appraisement secured by the

legislation of 1876. Those who have made partial payments under section two of the act of 1874, are equally entitled to the same relief.

The bill submitted has the approval of the Commissioner of Indian Affairs, as will appear by his report of this date, a copy of which I herewith inclose. Should the matter fail to receive attention at the present session great hardship will result, as the residue of the lands now thrown open to general settlement will at once be subject to disposal, orders to that effect having already been issued by this department, while these settlers already in possession of large interests and improvements will be compelled to await future and uncertain legislation to secure them in the homes heretofore attempted to be confirmed to them by law, but which, under fortuitous circumstances, they have been unable to acquire.

Very respectfully,

C. SCHURZ,
Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, May 19, 1879.

The Hon. SECRETARY OF THE INTERIOR:

SIR: Referring to department letter of the 14th instant, returning approved, tl original lists of Kansas trust and diminished-reserve lands in Kansas, as re-apprais by Messrs. Thomas S. Huffaker, H. W. Jones, and M. H. Newlin, commissioners, und the act of July 5, 1876, 19 stat. 74, and advising this office that the duplicate lists sul mitted for transmission to the Commissioner of the General Land Office have al been approved, and that he had been directed to offer for sale to actual settlers und section 2 of said act all the lands embraced in said lists, with the exception of tho falling under the provisions of section 1 of the act, and those upon which entry h heretofore been allowed under section 2 of the act of June 23, 1874, 18 stat., 272.

I have the honor to submit herewith, as directed in said letter, a draft of a bill f the relief of such actual settlers, as by the changing policy imposed by the acts hav been deprived of their intended benefits, and to make the following report thereon.

All those persons mentioned in the first section of the act of July 5, 1876, are no outside of any relief, as those settlers who entered under the act of 1874 are under repealed statute, and those who have not yet entered cannot comply with the act 1876, by paying the first installment before January 1, 1877.

Those persons who entered under section 2 of the act of 1874 prior to the act of 187 are also not within the provisions of any existing statute. The penalties of the ac of 1874 cannot be enforced, as that act is repealed by the act of 1876. They are no subject to the act of 1876, as they did not make entry under its provisions.

Section 1 of the proposed bill grants relief to those persons mentioned in section 1 of the act of 1876, by permitting them to complete the payment for the lands to which they are entitled, under the act of 1876, at the newly-appraised value allowing credit for all sums heretofore paid as principal and interest, which shall constitute one instalment and the balance to be paid in three equal annual instalments, the first to be paid January 1, 1880, and the deferred instalments to draw interest at the rate of six per centum per annum.

Section 2 of this bill extends the provisions of section 1 to persons who have made entries under section 2 of the act of June 23, 1874, and section 3 extends the provisions of section 2 of the act of 1876, relating to default and forfeiture to all entries and requirements of the provisions of this bill.

I inclose duplicate copies of said bill, and of this report, and have the honor to recommend that the matter be laid before Congress with a recommendation for early and favorable action thereon.

Very respectfully, your obedient servant,

E. J. BROOKS,
Acting Commissioner.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 90.

IN THE SENATE OF THE UNITED STATES.

JANUARY 14, 1880.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 52.]

The Committee on Claims, to whom was referred the bill (S. 52) for the relief of John N. Reed, have duly considered the same, and submit the following report:

In the Forty-third Congress, first session, in the House of Representatives, a bill (No. 707) for the relief of claimant, Reed, was presented and referred to the Committee of Claims, and Mr. Nunn, to whom the bill was referred as a sub-committee, called upon the Secretary of War and the accounting officers of the Treasury Department for information. The Secretary of War, under date of March 12, 1874, furnished the following letter, to wit:

WAR DEPARTMENT,
Washington City, March 2, 1874.

SIR: In compliance with your request of the 27th ultimo, I inclose a copy of the contract between Lieut W. H. Stevens and Reed, Pitt & McPherson, in 1861, which was approved by this department.

There is no record of what amount has been paid on this contract, but if payment has been made thereon it may be ascertained from the accounts of Lieutenant Stevens on file in the office of the Third Auditor of the Treasury.

Very respectfully, your obedient servant,

WM. W. BELKNAP,
Secretary of War.

Hon. D. A. NUNN,
503 D Street, Washington, D. C.

A duly-certified copy of said contract accompanied said letter. This contract is dated July 14, 1860, and was made on the part of the United States by Lieut. W. H. Stevens, United States Engineers, with J. N. Reed, Alexander Pitt, and W. McPherson, of Galveston, Tex., and was duly approved by the War Department. By its terms the contractors agreed "to furnish at the wharf at the north end of Pelican Spit, Galveston Bay, 100,000 cubic feet of fine shells, 100,000 cubic feet of clean clam or cockle shells, and 10,000 cubic feet of clean, sharp sand, like the sample shown at Lieutenant Stevens's office; the sand and shells to be of good quality, and subject to the inspection of Lieut. W. H. Stevens, or of such agent or agents as he may designate, or of such agent or agents as may hereafter succeed him, the whole amount of deliveries not to be less than 40,000 cubic feet of each kind of shell and 10,000 cubic feet of sand per month. The price for fine shells to be 2½ cents per cubic foot, 6¼ cents per cubic foot for clam or cockle shells, and 8¾ cents per cubic

foot for sand," which prices the United States agreed to pay on al— liveries as required by the contractors, retaining on such partial ments 15 per cent. until the contract was completed. The United S— agreed "to receive the shells and sand at the rail of the vessel a side the wharf on the north end of Pelican Spit, Galveston Bay." were the terms of the contract. The contractors gave bond for faithful performance of the contract, with good and sufficient secur— which was approved by the United States attorney for the eastern trict of Texas on July 14, 1860. In reply to the application of Mr. N the Treasury Department furnished the following letter, to wit:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
Washington, D. C., March 5, 187

SIR: In reply to your letter of the 4th instant, herewith returned, I have to infor you that Lieut. W. H. Stevens, United States Engineers, paid Reed, Pitt & McPher son, on contract dated July 14, 1860, for furnishing shells and sand, the sum of $2,0 in the fourth quarter of 1860.

Respectfully,

ALLAN RUTHERFORD,
Auditor.

Hon. D. A. NUNN, M. C.,
House of Representatives, Washington, D. C.

Mr. Nunn, of the House, reported favorably, on May 8, 1874 (Repo No. 564), a substitute (H. R. 3268) for said bill, and made the followin summary of the materials delivered, prices and amounts, &c., to wit:

52,214 feet, at 2½ cents per foot	$1,305
14,684 feet cockle-shell, at 6½ cents per foot	954
15,926 feet mixed (half fine and half cockle), at 4⅜ cents, which at contract price is equal to	696
14,567 feet sharp sand, at 8¾ cents per foot	1,274
	4,231
These deliveries are proved by the receipts of the officers. If we deduct the payments by the Secretary of the Treasury	2,040
There remains a balance due for actual delivery	2,191

But the same officers prove that the government was not prepared to receive th shell at a wharf at the north end of Pelican Spit, Galveston Bay, as stipulated by th contract, and consequently the agents could not receive the articles at the rail of th vessel, but, on the contrary, these agents employed the hands of the contractors for time, equal to 1:38 days of labor, at $1.50 per day, to wheel off the shell and sand fro the vessels to the fort, thus making a just charge of $237. The same officers also ce tify that the steamer San Antonio and the two schooners Dinslow and Jane we detained seventeen days because the United States were not ready to receive the ar cles at the rail of the vessel, as stipulated in the contract; and for this demurrage th petitioner charges $2,550, which, under the circumstances, seems to be a just charg

Add, therefore, the balance for material actually delivered	$2,191
Labor of the petitioner's hands while employed by the United States	237
Demurrage or detention of the vessels	2,550
Makes a balance	4,978

Your committee believe that this whole sum should be allowed to John N. Reed, whom the whole contract has been assigned.

This bill, so amended, passed the House January 22, 1875, and w sent to the Senate, where, on February 13, 1875, it was reported wi amendment by Mr. Merrimon, when no final action was had.

In the Forty-fourth Congress a bill for the relief of claimant was i troduced in the House of Representatives and referred to the Committ of Claims, and on December 22, 1876, Mr. Pratt, from said committ reported favorably a substitute (H. R. 4274) for said bill, which rep was identically the same as the report of Mr. Nunn in the former C

; bill, after being reported was placed upon the Private Cal-
ras not reached. In the Forty-fifth Congress, in the House
tatives, a bill (H. R. 690) for the relief of claimant was intro-
eferred to the Committee of Claims, and on April 24, 1878,
od, from said committee, reported favorably a substitute
which was passed by the House of Representatives, and sent
e and referred to the Committee on Claims, and on February
. Harris, from said committee, reported the said bill (H. R.
bly to the Senate, adopting the report of Mr. Lockwood.
rts of Mr. Lockwood and Mr. Harris make the following
the materials delivered, and prices and amounts, &c., to wit:

2½ cents per foot	$1,305 35
kle-shell, at 6¼ cents per foot, which at contract price is equal	954 46
ed (half fine and half cockle), at 4⅝ cents	696 76
rp sand, at 8¾ cents per foot	1,274 68
	4,231 25
es are all proved by the receipts of the officers. Deducting s made by the Secretary of the Treasury	2,040 00
a balance due for actual delivery	2,191 25

icers prove that the government was not prepared to receive the shell
wharf at the north end of Pelican Spit, Galveston Bay, according to
e contract. The agents of the government could not, therefore, receive
sand at the rail of the vessel, but, on the contrary, these agents em-
ıds of the contractors for a time equal to 138 days of labor, to wheel off
sand from the vessels to the fort; the claimant shows that such labor
50 per day, thus making a just charge of $237. The same officers also
e steamer San Antonio and the two schooners Dinslow and Jane, the
and used by the contractors in transporting the shells and sand, were
ys because the United States were not ready to receive the shells and
il of the vessel, as provided in the contract; for this demurrage the
ms $2,550, or at the rate of $150 per day. Your committee think that
700 or $100, per day, would be a just and proper sum to allow for de-

r material actually delivered	$2,191 25
etitioner's hands while employed by the United States	237 00
detention of the vessels	1,700 00
balance of	4,128 25

ttee believe that this whole sum should be allowed to John N. Reed, to
le contract has been assigned.

mittee have carefully re-examined all the facts in this case,
d that A. J. Moore was a duly authorized agent or overseer
ıt Stevens to receive and receipt for shells, sand, and mate-
ıat said contractors did duly deliver to the United States,
luly received for them by said Moore, materials as follows, to

et of fine shells, at 2¼ cents per foot	$1,331 60
et of cockle-shells, at 6¼ cents per foot	954 46
et mixed shells (half fine and half cockle), at 6⅝ cents per foot	696 76
et clean, sharp sand, at 8¾ cents per foot	1,274 68
ıte amount	4,257 50
nt made by Lieutenant Stevens	2,040 00
a balance due for materials actually delivered	2,217 50

mittee further find that the United States could not receive
terials "at the rail of the vessel alongside the wharf on the

north end of Pelican Spit, Galveston Bay," as per contract, and th therefore, the agents of the government employed the laborers of t contractors to perform, and they did perform, 138 days' labor, worth $1. per day, amounting to $207, in wheeling off and transporting the s materials from the vessels to the fort, and that they are justly entitl to said last-named sum.

Your committee further find that by the terms of the contract it is p vided: "This contract to receive the approval of the Secretary of War fore going into effect, and the time allotted for deliveries to be recko from the eleventh day after the party of the second part (the contracto has received notice of the approval." Your committee have not been a to ascertain the exact date of the approval of said contract by the S retary of War, or the exact date when notice of the approval was ceived by the contractors. The evidence shows that the steamer S Antonio was detained for twenty-three days, from September 7, to vember 14, 1860. The claimant claims demurrage for such detentio his memorial and account for only seventeen days, which is, probal the correct number of days of detention after the notice of approval received. The claimant asks $150 per day for demurrage. The c tract makes no provision for demurrage or detention of vessels, exc as stated in the portion thereof hereinbefore copied, that is, "that time allotted for deliveries shall be from the eleventh day after no of approval to the contractors," but does not stipulate any price amount of compensation. Your committee think that the amoun $100 per day for the seventeen days, as heretofore recommended agreed to in the House and Senate, is a full compensation for such murrage. Your committee further find that the contractors of claim Alexander Pitt and W. McPherson, on January 7, 1861, duly assig and transferred their portion of the said contract to claimant, and t the contract was not complied with in consequence of the secessio the State of Texas and the civil war which followed; and while i quite true that the claimant lost his vessels, which were seized by Confederate authorities, and he was deprived of the further benefit his contract, the government cannot be held reponsible.

The committee may add that it was in proof that the claimant, J N. Reed, remained loyal to the United States, and immediately a the close of the war he was appointed one of the deputy collectors internal revenue in the district of his residence in Texas.

The claimant, in his memorial, makes the following summary of claim:

Therefore, he claims an actual balance of	$4,968
And damages for loss of contract	2,696
Making a total of	7,665

But in his account, certified by him December 4, 1865, and verified his affidavit on the same day, he makes the following claim:

52,214 feet fine shell, at 2½ cents	$1,30
14,684 feet cockle-shell, at 6½ cents	95
15,926 feet mixed (half fine and half cockle), at 4⅜ cents	69
14,567 feet sharp sand, at 8¾ cents	1,27
138 days' work of hands furnished to wheel off shell and sand, at $1.50	20
17 days' demurrage of steamer San Antonio and barges, at $150 per day	2,55
	6,98
Credit by cash of W. H. Stevens	2,02
	4,96

The claimant in estimating the amount of fine shells seems to have mitted one delivery of 1,050 cubic feet, shown by the evidence to have een delivered.

Your committee, after the most patient investigation, submit the fol- wing statement of their conclusions upon each item charged for, to it:

,264 cubic feet fine shells, at 2½ cents per foot	$1,331 60
,684 cubic feet cockle-shells, at 6¼ cents per foot	954 46
,926 cubic feet mixed shells (half fine and half cockle), at 4⅜ cents per foot	696 76
,567 cubic feet clean, sharp sand, at 8¾ cents per foot	1,274 68
138 days' labor of hands, at $1.50 per day	207 00
emurrage or detention of vessels, 17 days, at $100 per day	1,700 00
All aggregating	6,164 50
om which deduct the payment made	2,040 00
Leaving a balance due the claimant of	4,124 50

Your committee recommend the payment of the above sum, and the nendment of the bill to correspond therewith; and, as so amended, re- rt the bill back to the Senate with the recommendation that it do ass.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 91.

IN THE SENATE OF THE UNITED STATES.

JANUARY 14, 1880.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 578.]

The Committee on Pensions, having examined the bill (S. 578) granting an increase of pension to Samuel B. Davis, Company C, Eighteenth Regiment Indiana Volunteers, and the papers accompanying, find that said soldier was pensioned March 3, 1873, at the rate of $18 per month, for anchylosis of the ankle and elbow joints, the result of disease contracted in the service. The disability having increased, the pension was subsequently rated at $24 per month, commencing March 3, 1873. Application is now made for an increase to $36 per month, on the ground that the disability is so great as to entitle the pensioner to the same rate allowed by law for the loss of a leg and an arm. The affidavits of Merlin L. Hall, M. D., and Lewis Shepard, M. D., filed in the case, appear to establish the fact, as they depose that the left ankle is completely anchylosed, with great enlargement of bony structure around the joint, and the whole limb atrophied and shrunken to a degree that renders it entirely useless, and a source of suffering and inconvenience; that the right elbow-joint is also anchylosed, with atrophy of the muscles of the arm, and anchylosis of the bones of the hand, with consequent inability to close the fingers, rendering hand and arm entirely useless.

The committee, therefore, recommend the passage of Senate bill No. 578, with an amendment.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 92.

IN THE SENATE OF THE UNITED STATES.

JANUARY 14, 1880.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 298.]

The Committee on Claims, to whom was referred the bill (S. 298) for the relief of Van B. Bowers, have duly considered the same, and submit the following report:

This bill directs the Secretary of the Treasury to pay to Van B. Bowers, late postmaster at Bucklin, Linn County, Mo., $113, being the amount of postage-stamps stolen from the safe of the post-office on the night of October 28, 1874, by burglars, without fault or negligence on the part of said Bowers. A bill for the relief of said Bowers was presented in the House of Representatives of the Forty-fifth Congress on November 5, 1877, and referred to the Committee on Claims. On December 13, 1878, said House Committee on Claims reported a substitute for said bill (H. R. 5521) directing the Auditor of the Treasury for the Post-Office Department to credit said Bowers, postmaster, in his account as such postmaster, with $113 for said stolen stamps, and recommended the passage of such substitute. The first presentation of the bill to the Senate was April 1, 1879. Your committee referred said bill to the Postmaster-General for examination and report, and received in reply thereto the following letter from the Third Assistant Postmaster General, and copy of report of Special Agent F. W. Schaurte, to wit:

POST-OFFICE DEPARTMENT,
OFFICE OF THIRD ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., January 6, 1880.

SIR: By direction of the Postmaster General, I have the honor to acknowledge receipt of your letter of the 23d ult., inclosing bill (S. 298) for the relief of Van B. Bowers, late postmaster at Bucklin, Mo., on account of postage-stamps stolen from his office on the 28th of October, 1874, and to inform you that the affair was investigated shortly after its occurrence by Special Agent F. W. Schaurte, of this department, whose report, copy of which is herewith transmitted, gives in detail the circumstances of the robbery. In this report, the loss sustained by the postmaster is stated to be $113, which, from an estimate made in this office, does not seem to be an unreasonable amount.

Mr. Bowers was appointed postmaster at Bucklin, June 28, 1872, and went out of office September 4, 1876. From inquiry at the Auditor's office it appears that he has settled in full for all indebtedness to the government.

The bill inclosed in your letter is herewith returned.

Very respectfully, &c.,

A. D. HAZEN,
Third Assistant Postmaster-General.

Hon. F. M. COCKRELL,
Chairman Committee on Claims, United States Senate.

SAINT LOUIS, MO., *May* 24, 1875.

SIR: Please find inclosed Dep. case No. 11896, reporting the robbery of the post-office at Bucklin, Linn County, Mo., on the night of October 28, 1874, of $100 worth of postage-stamps, $7.50 in cash, and one registered letter, No. 8, to David Beebe, containing $7.50. The post-office at Bucklin is kept in Dr. B. B. Putnam's drug-store, which is a good substantial frame building, 50 by 25 feet. The robbery was committed by F. W. Peters, an expert "cracksman," and the office was entered by boring holes in the door and slipping the fastenings. The offices at Camden and Memphis, Mo., were entered the same way (see Dep. cases 11781 and 12669). The stamps stolen by Peters amounting to $113, were sent per United States Express Company, from Macon, Mo., to Reuben De Barre, No. 200 East Water st., Milwaukee, Wis., on October 30, 1874. Peters made a confession to me, and his statement agreed exactly with that of the postmaster and assistant postmaster at Bucklin. No blame can be attached to the postmaster at Bucklin, and I hope that Congress will, by special enactment, pass a bill for his relief. The robberies set forth in Dep. cases 11781, 12669, and 11956, were committed by the same party. Peters plead guilty on March 8, 1875, at Jefferson City, Mo., and was sentenced to eight years' confinement in the Missouri penitentiary. His "pal," George Wolf, was tried in Springfield, Ill., and sentenced to one year's confinement. Reuben De Barre was also convicted at Milwaukee, but the Jew has money and may get clear yet. Case returned and indorsed "full dis."

Very respectfully,

F. W. SCHAURTE,
Special Agent.

C. COCHRAN, Jr., Esq.,
Superintendent Mail Depredations, Post Office-Department.

Your committee find that Van B. Bowers was postmaster at Bucklin, Linn County, Mo., from June 28, 1872, to September 4, 1876, when he went out of office, and that, without any fault or negligence whatever on his part, United States postage-stamps to the amount of $113 were stolen from the safe of the post-office by F. W. Peters on the night of October 28, 1874, and that said Bowers has paid and settled with the department for the face value—$113—of said stamps, and is not now in office, and is entitled to be reimbursed to said amount of $113. Your committee therefore report back said bill to the Senate with the recommendation that it do pass.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 93.

IN THE SENATE OF THE UNITED STATES.

JANUARY 14, 1880.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 455.]

The Committee on Claims, to whom was referred the bill (S. 455) for the relief of Reuben S. Jones, of Memphis, Tenn., making compensation for the use and occupation of three brick buildings situate in Memphis, by the military forces of the United States, for hospital purposes, from the 1st of August, 1862, to the 1st of March, 1864, have considered the same, and report thereon as follows:

The claim made by petitioner is for rent of three brick buildings in Memphis, Tenn., from August 1, 1862, to March 1, 1864	$12,825 00
And for damages to buildings.....	5,667 50
Making a total of	18,492 50

The evidence submitted to your committee satisfactorily proves that the legal title to said premises during the time above named was in the petitioner. The equitable title was, however, in the firm of Jones, Brown & Co., of which firm petitioner was a member. That Martin B. Jones, also a member of said firm, died subsequent to March 1, 1864, and that Eliza L. Jones, his widow, was duly appointed administratrix of his estate. That she, as such administratrix, instituted a suit in the chancery court of Shelby County, Tenn., against Reuben S. Jones and W. N. Brown, the surviving members of said firm, for the purpose of dividing the property and assets of said firm. That said suit was prosecuted to judgment, and that in the division of the property of said firm a claim against the Government of the United States for $18,549.17 for rent of and damages to said three buildings, was assigned and allotted by said court to said Reuben S. Jones, the said petitioner.

Your committee is satisfied from the evidence that said petitioner is the sole owner of said claim. Your committee is also satisfied, from the evidence, that said property was taken possession of and occupied by the military authorities of the United States for the purposes of a hospital, from the 1st of August, 1862, to the 1st of March, 1864.

The evidence also satisfactorily shows that the rent claimed by petitioner, to wit, $8,100 per annum, is a reasonable charge.

The committee is not satisfied that the buildings were damaged, while in possession of the United States, in the sum claimed, but in the view the committee takes of the case it is not necessary to determine the amount of damages. There was no agreement on the part of the government to pay anything for the use or occupation of the premises.

Is there any obligation, then, on the part of the government to pay petitioner's claim, or any part of it?

Memphis was in an insurrectionary State.

By the laws of war, the lawful military authorities might destroy houses in the insurrectionary States to prevent them from being used as means of aid and comfort to the rebellion, or to hasten its speedy overthrow; so they may the much more be used without liability to make compensation.

The policy determined on by Congress is clearly expressed in the act of February 21, 1867, which prohibits "the settlement of any claim for the occupation of or injury to real estate when such claim originated during the war for the suppression of the Southern rebellion in a State or part of State declared in insurrection."

This committee has heretofore adopted the rule not to recommend the payment of any claim for the occupation of or injury to real estate when such claim (in the language of the statute just quoted) "originated during the war for the suppression of the Southern rebellion in a State or part of State declared in insurrection," unless there was an express *agreement* on the part of the government to pay rent.

There was no express agreement to pay rent in this case. It is not claimed that there was any such agreement.

The committee, therefore, in accordance with its own rule, and, as the committee believes, in accordance with the laws of war, recommends that the claim of petitioner be not allowed, and that said bill be indefinitely postponed.

H CONGRESS, } SENATE. { REPORT
2d Session. } { No. 94.

IN THE SENATE OF THE UNITED STATES.

JANUARY 14, 1880.—Ordered to be printed.

[r. HOAR, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 76.]

'he Committee on Claims, to whom was referred the bill (S. 76) for relief of M. F. Clark, have considered the same, and respectfully re- t that the bill ought to pass.

\ bill like this passed the House in the last Congress, and was there orted favorably to the Senate by the Committee on Claims. We pt the report then made by Mr. Teller. We have re-examined the dence and find that the facts set forth by him are fully proved. This ort is as follows:

Ir. TELLER, from the Committee on Claims, submitted the following report (to accompany bill H. R. 2848):

e Committee on Claims, to whom was referred the bill (H. R. 2848) for the relief of M. F. Clark, having had the same under consideration, make the following report:

The facts in this case appear to be as follows:

M. F. Clark was lieutenant Company B, Fifth Kansas Cavalry. His term of service pired in 1864, when he was at Pine Bluff, Ark. Under orders from Major-General eele, he turned over to the post quartermaster one mule, which he states was reived at $175, one horse at $150, one horse at $125, one horse at $60, equipments for id animals, $40. That before the vouchers were made out, and about August 20, 864, a boat reached Pine Bluff, and he, with others whose term had expired, was orered aboard.

Samuel Walker, who was major of the Fifth Kansas Cavalry, testifies that he was resident of the board of appraisers, which appraised the property mentioned about August 20, 1864, and that the appraisement was for the amounts above stated.

That Lieutenant Clark never received the vouchers, never disposed of the same, and never received pay for the property sold to the United States, and the amount of $550 is yet due him.

That a voucher in the name of said Clark, dated August 8, 1864, purporting to have been issued by E. D. Hillyer, acting assistant quartermaster, for one mule, valued at $140, was paid by William Myers, assistant quartermaster at Saint Louis, December 29, 1864, and that the name of M. F. Clark was signed to the receipt attached thereto.

That a voucher in the name of said Clark, dated November 4, 1864, purporting to have been issued by E. J. Barnes, assistant quartermaster, for three horses, valued at $360, was paid by Ingham Coryell, assistant quartermaster, at Saint Louis, June 28, 1865, and that the name of M. F. Clark was signed to the receipt attached thereto.

That the signatures purporting to be those of M. F. Clark, attached to such vouchers, were false, forged, and fraudulent; that M. F. Clark has never received pay for his property so turned over to the United States; that the United States is indebted to him in the amount stated; that a voucher for the $40 for the equipments turned over to the government has not been presented nor paid.

The committee recommend the passage of the bill.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 95.

IN THE SENATE OF THE UNITED STATES.

JANUARY 14, 1880.—Ordered to be printed.

Mr. TELLER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 185.]

The Committee on Claims, to whom was referred the bill (S. 185) for the relief of Gibbes & Co., having carefully examined the facts, and finding the report adopted by the committee at the first session of the Forty-fourth Congress and second session of the Forty-fifth Congress fully sustained, adopt the same, as follows:

"The facts in relation to this claim, furnished, at the request of your committee, in a letter from the Secretary of the Treasury, dated July 10, 1876, are as follows:

"Late in the year 1865 certain cottons in Augusta, Ga., were seized or detained by Treasury agents as Confederate or blockade cottons. They were claimed by Gibbes & Co., of Charleston, as being in part their property, and in part the property of certain English firms, of whom they were the agents. Upon evidence produced by the claimants, the Secretary of the Treasury, on the 27th of February, 1866, directed that the cottons be restored to them upon their payment to the United States of all costs, charges, and expenses paid or incurred by Treasury agents in connection with the cottons restored.

"The amount so paid as charges was principally due to Savary & Co., who were engaged in putting in order government cottons and in transporting and shipping the same. The amount of their bill for expenses, &c., on the Gibbes & Co. cotton, $44,217.48, was deposited by Gibbes & Co., and went into the hands of the United States Treasurer. Afterward it was ascertained by Gibbes & Co. that there had been delivered to them by mistake 160 bales of cotton which did not belong to them, and which they accordingly returned. In the bill rendered by Savary & Co. there was charged the sum of $7,733.04 as expended by them on this lot of 160 bales. This sum Gibbes & Co. claimed should be returned to them by the United States. To this demand Savary & Co. interposed a further bill of expenses, not included in their first bill, which they claimed they had incurred on the Gibbes & Co. cottons. This second bill amounted to $4,576.92. Gibbes & Co. allege that the charges made by Savary & Co. were generally excessive, but consented to receive at that time from the United States the difference between their bill of $7,733.04 and the bill of Savary & Co., $4,576.92, viz, $3,156.12. Afterward Savary & Co. applied to the Secretary of the Treasury for payment of their bill of $4,576.92. Upon a close examination of all their accounts, it was found that their charges which had been paid to them in connection with government cottons and cottons seized, but released by the Secretary, were excessive to an amount greater than their claim of $4,576.92

against the United States. The payment of this claim was therefor refused.

"The balance (viz, $4,576.92) of the bill of $7,733.04 paid by Gibbes Co., as expenses on cotton returned to the United States, has never bee paid to them. Justice would seem to require the payment of this ba ance.

"In answer to inquiries made by your committee of the Secretary of tl Treasury as to whether this claim, if properly presented, would not ha been cognizable by the department without the intervention of Congre the Secretary, under date of July 13, 1876, replies that prior to the 30 day of March, 1868, the question to whom the sum of money n claimed by Gibbes & Co. was due, whether to them or to Savary & C had not been decided. On that day was passed the joint resolution Congress requiring all moneys derived from captured and abandon property to be covered into the Treasury. The money in question w included in that fund, and was accordingly covered into the Treasu Since that time no appropriation has been made by Congress out which the claim of Gibbes & Co. could properly have been paid."

A bill for the relief of Gibbes & Co. passed the Senate April 25, 18 but failed to pass the House of Representatives.

Claimants are clearly entitled to the relief asked, and we theref report back the bill and recommend its passage.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 96.

IN THE SENATE OF THE UNITED STATES.

JANUARY 14, 1880.—Ordered to be printed.

Mr. BAILEY, from the Committee on Post-Offices and Post Roads, submitted the following

REPORT:

[To accompany bill H. R. 2003.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. 2003) "For the relief of J. P. Zimmerman and H. P. Snow, of Clinton County, Kentucky," having had the same under consideration, beg leave to report and to adopt as their own the report made by the Committee on Post-Offices of the House of Representatives, as follows:

The Committee on the Post-Office and Post-Roads, to whom were referred the petition and bill for relief of J. P. Zimmerman and H. P. Snow, having had the same under consideration, find that L. L. Shelby, of the county of Clinton and State of Kentucky, was a bidder for mail route No. 20342, in said State of Kentucky, and that said route was awarded to said Shelby for $49.50 per annum for four years; that said Zimmerman and Snow were guarantors in the bid of said Shelby for said mail route; and that said Shelby, after notice from the Post-Office Department of their award in the premises, made and forwarded to said Post-Office Department a bond in due form, with other sureties, for the proper performance of the service on said route; that for want of proper attestation said bond was returned by the department to the makers thereof and their sureties to be perfected, but said bond was not perfected, nor was it returned to the department, and a subsequent letting of said route was made for the sum of $50 per annum, and therefore the said department demanded of the said guarantors, Zimmerman and Snow, the penalty of their bond as such guarantors, amounting to $100, which said sum was paid by said Zimmerman and Snow on the 2d day of July, 1878. On the 6th day of July, 1878, the account of the department against said guarantors was adjusted by the Auditor at $2, being the damage sustained by the department by reason of the failure of the said Shelby to perform service awarded to him. The said sum of $100 having been paid into the Treasury of the United States before notice of the adjustment of the account, the Post-Office Department could give no relief. The committee, therefore, report the said bill back with the following amendment: Strike out the words "one hundred dollars" and insert "ninety-eight," and with said amendment recommend the passage of the bill, and submit this their report, and ask to be discharged from the further consideration thereof.

The committee recommend that the bill be passed.

O

6TH CONGRESS, 2d Session. | SENATE. | REPORT No. 97.

IN THE SENATE OF THE UNITED STATES.

JANUARY 14, 1880.—Ordered to be printed.

Mr. HARRIS, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom were referred the petition and papers of William Longnecker, submit the following report:

The petition alleges that on the 7th July, 1865, the United States troops of the Fourth Army Corps, under command of General Stanley, "*took possession of*" a certain storehouse and adjoining lots, and used the same until September 5, 1866, and a certain dwelling-house, which was held and used until 9th October, 1865, the property of petitioner, situate in Calhoun County, Texas, for which the petitioner has never received any compensation.

The petitioner states his account as follows:

To rent of storehouse and lots from July 7, 1865, to October 16, 1865, at $300 per month	$970
To rent from October 16, 1865, to September 5, 1866, at $300	3,200
To rent of dwelling-house from July 7 to October 9, 1865, at $20	60
Making	4,230

The use and occupation, and its value as stated, as well as the loyalty of the claimant, are proved by the affidavits of the petitioner, Zara Williams, and Alexander T. Hensley. The loyalty of petitioner, and the respectability of Zara Williams and Alexander T. Hensley, the witnesses, are certified to by United States Commissioner T. E. Bradford. In the opinion of the committee, these facts are satisfactorily proved. But the claimant says in his petition that the Army "*took possession*" of the property, alleging no contract for rent, and in his affidavit he says that "Major-General Stanley declined to give a voucher upon the ground that the United States Government would not pay for the use of property in States lately in rebellion." It is clear that there was no contract for the rent of the property occupied, and as the committee have uniformly declined to recommend payment for use and occupation where there was no contract for rent, the committee see no reason why an exception should be made in this case; they therefore recommend that the claim be not paid.

6TH CONGRESS, 2d Session. | SENATE. | REPORT No. 98.

IN THE SENATE OF THE UNITED STATES.

JANUARY 14, 1880.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to which was referred the memorial of Abby A. Ham and Elizabeth H. Brown, of Providence, R. I., sole devisees of James S. Ham and Abby S. Vose, John W. Vose, Caroline M. Vose, James P. Vose, Laura W. Stewart, wife of Anthony Stewart, jr., Ella Denham, wife of Henry J. Denham, and Clarence Vose, only children and sole beneficiaries of the last will of John W. Vose, deceased, have duly considered the same, and submit the following report:

The memorialists, Ham and Brown, claim to be the sole devisees under the last will of James S. Ham, deceased, and the memorialists, Abby S. Vose, and her six brothers and sisters, claim to be the only children and sole beneficiaries under the trust created by the last will of John W. Vose, deceased, and that the vault of the Traders' Bank of Providence, R. I., was entered by burglars between the time of closing Saturday night, February 11, and the following Monday morning, February 13, 1865, and was robbed, among other property and securites, of fifteen United States five-twenty coupon bonds of $1,000 each, dated May 1, 1862, and numbered from 13799 to 13813, both inclusive, respectively, with the coupons thereto attached, which bonds they claimed belonged to the memorialists by title derived from the said James S. Ham and the said John W. Vose; that efforts were made to recover the said bonds, but without success. They pray the passage of an act directing the Secretary of the Treasury to examine the statements made in the memorial and their title, and, upon being satisfied, to pay to said memorialists the value of said bonds and unpaid coupons. No evidence whatever accompanied the said memorial, and your committee have no means of ascertaining the truth of the statements therein made. Desiring to do justice to the memorialists and to find out all the facts in the case, your committee referred the memorial to the Secretary of the Treasury for information and report and the views of the department upon the propriety of granting the relief prayed for, and received from him the following letter and copy of a former letter written by the department upon the same subject, to wit:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., January 10, 1880.

SIR: I have the honor to acknowledge the receipt of your letter of the 6th instant, inclosing the memorial of Abby A. Ham and others, relative to the passage of a law by Congress for the issue of duplicate bonds in lieu of United States coupon bonds Nos. 13799 to 13813, inclusive, for $1,000 each, act of February 25, 1862, second series, alleged to have been lost, and inquiring whether said bonds or the coupons belonging

thereto, maturing since February, 1865, have been presented for payment or paid, and, if so, by whom and to whom paid; whether the bonds referred to have been called for redemption, and, if so, when, and, if paid, to whom; whether the memorialists, or any one for them, have ever presented any claim to this department for the payment of said bonds, and, if so, what action was had thereon; also, what authority is vested in this department by law for the adjudication of such claims, and as to the propriety of special legislation applicable to this case or general legislation to meet all such claims, and at the same time protect the interests of the United States.

In reply I have to advise you that the above-described United States bonds appear as outstanding on the books of this department, and no coupons belonging to them, maturing since November 1, 1864, have been presented to this department, except coupons of bonds Nos. 13800 and 13801, which matured May 1, 1867, and were redeemed by the assistant treasurer of the United States at New York, and received in his account for that month and year. The name of the party or parties to whom they were paid has not been furnished to this department.

The bonds in question were embraced in call No. 3, and matured March 20, 1872. A copy of the call is herewith inclosed.

There has been no formal application for relief made to this department by the memorialists or any one for them, except as appears from the papers and evidence transmitted on the 29th of March, 1876, to the Hon. George G. Wright, then chairman of Senate Committee on Claims, in compliance with the request contained in his letter of the 24th of March, 1876. Copies of his letter and also department's letter of the 29th of March, 1876, inclosing said papers and evidence, are herewith transmitted.

There is no authority in law for the redemption or exchange of coupon bonds alleged to have been lost.

From the past experience of this department it is not deemed advisable or compatible with the interests of the government to encourage further legislation relating to the redemption of missing coupon bonds.

The memorial, as you request, is herewith returned.

Very respectfully,

JOHN SHERMAN, *Secretary.*

Hon. F. M. COCKRELL,
Chairman Committee on Claims, United States Senate Chamber,
Washington, D. C.

TREASURY DEPARTMENT.
March 29, 1876.

SIR: In response to your request of the 24th instant, I have the honor to transmit herewith all papers and evidence relating to the application of the heirs of John W. Vose and James S. Ham in the case of United States securities alleged to have been stolen from the Traders' Bank of Providence in February, 1865.

The bonds referred to are numbered 13799 to 13813, inclusive, second series, act of February 25, 1862, and you will observe, from accompanying certificate of the Register, that no coupons from these bonds have been redeemed since those which matured November 1, 1864, except two numbered 13800 and 13801, the coupons of which, due May 1, 1857, have been redeemed. The only authority for the Secretary of the Treasury to afford relief in cases of lost United States bonds is conferred by sections 3702, 3703, and 3704 of the Revised Statutes, which require clear and satisfactory proof of *destruction.*

As there is in this case no evidence of destruction save that of the non-appearance of the coupons, no action has been taken by the department.

Very respectfully,

CHAS. F. CONANT,
Assistant Secretary.

Hon. GEORGE G. WRIGHT,
Chairman of the Senate Committee on Claims.

The foregoing letter of March 29, 1876, addressed to the Hon. George G. Wright, then chairman of the Senate Committee on Claims, disclosed the fact that a claim for these same bonds had been pending in the Forty-fourth Congress, and your committee thereupon examined the records of Congress, and found that on March 14, 1876, two bills were introduced in the Senate, being S. 593 and 594, one for the relief of the heirs of James S. Ham and the other for the relief of John W. Vose, and that they were referred to the Committee on Claims, and on June

, 1876, the Committee on Claims made to the Senate the following re-
ort, to wit:

These bills provide for the redemption by the Secretary of the Treasury of certain
nited States bonds in favor of the heirs of James S. Ham and the heirs of John W.
ose, respectively, upon the execution and filing of satisfactory bonds of indemnity,
usually required in such cases. The bills are similar and the evidence supporting
em is the same, and we therefore shall consider them together.

It appears that between the evening of February 11 and the morning of February
.1865 (Saturday and Monday), the Traders' Bank of Providence, R. I., was broken
to and robbed, and among other property and money taken therefrom were fifteen
20 United States coupon bonds, of $1,000 each, being Nos. 13799 to 13813, inclusive,
second series, act of February 25, 1862. These bonds were deposited in a trunk
longing to James S. Ham, which was in the vault of the bank. Four of these bonds
longed to James S. Ham, to wit: Nos. 13810 to 13813, inclusive, and the remaining
ven to the estate of John W. Vose. James S. Ham is since deceased, and the bill
ovides for redemption being made to his heirs. The Assistant Secretary of the
easury, under date of March 29, 1876, replying to a request from the committee for
formation in regard to these bonds, incloses a certificate from the Register of the
nited States Treasury showing that no coupons from these bonds have been redeemed
ce those which matured November 1, 1864, except two, numbered 13800 and 13801,
upons of which, due May 1, 1867, have been redeemed; and the Assistant Secretary
oceeds to state that "the only authority for the Secretary of the Treasury to afford
lief in cases of lost United States bonds is conferred by sections 3702, 3703, and 3704
the Revised Statutes, which require clear and satisfactory proof of *destruction;*"
d as there is no satisfactory proof in this case that the bonds have been destroyed,
action can be taken by the department.

And thus we have the substance of these cases.

The loss was for no fault of the government. The bonds are negotiable by delivery
d without indorsement. They were coupon, not registered, bonds. They were not
stroyed, but, as far as it appears, are still in existence and in circulation. They
ll have six or seven years to run before maturity. The government would have no
otection whatever against double liability upon these bonds if this bill should pass,
re as it would be afforded by the proposed indemnity. But it is not at all probable,
the ordinary course of business, that the need of such security would arise until
er the bonds matured; and all experience shows that parties abundantly good now
ght be quite worthless at the end of six or seven years. The government ought
t to be put to any such hazard. Parties can easily protect themselves against such
ses by procuring registered bonds. If they prefer the other, or coupon form, it
ems to be safer and better for the government, though it may work some little delay
d inconvenience to the owner that such owner, if his bonds shall be stolen or lost,
ll wait until their maturity before asking special legislation for his benefit and
ir redemption. After their maturity such bonds cease to have negotiable incidents. The government, by exacting a bond of indemnity then can have that rea-
nable certainty of protection which it should have. The owner is protected, too,
fully as he ought to expect or exact, for the delay in the payment of the contract
from no fault of the government. The government is ready to pay, but, of course,
ould not do so without the presentation of the coupon notes. The inability to pro-
ce them, as already suggested, is from no fault of the government. And though it
said and admitted that this is without the fault of the party, it is nevertheless true
at he has no right to exact such payment without the production of the evidence
indebtedness. After maturity the same reasons do not apply, and then, in our
inion, it will be time enough to ask Congressional intervention.

We only add, in conclusion, that we are strengthened in this view from the knowl-
ge that the Finance Committee of this body, frequently having this precise question
fore them, have uniformly declined to interfere. We therefore recommend the in-
finite postponement of these bills.

The sections of the Revised Statutes referred to in the letters of the
ecretary and the foregoing report are as follows, to wit:

Sec. 3702. Whenever it appears to the Secretary of the Treasury, by clear and une-
ivocal proof, that any interest-bearing bond of the United States has, without bad
ith on the part of the owner, been destroyed, in whole or in part, or so defaced as
impair its value to the owner, and such bond is identified by number and descrip-
n, the Secretary of the Treasury shall, under such regulations and with such re-
ictions as to time and retention for security or otherwise as he may prescribe, issue
uplicate thereof, having the same time to run, bearing like interest as the bond so
ved to have been destroyed or defaced, and so marked as to show the original
mber of the bond destroyed and the date thereof. But when such destroyed or
aced bonds appear to have been of such a class or series as has been, or may before

such application be, called in for redemption, instead of issuing duplicates thereof, they shall be paid with such interest only as would have been paid if they had been presented in accordance with such call.

SEC. 3703. The owner of such destroyed or defaced bond shall surrrender the same, or so much thereof as may remain, and shall file in the Treasury a bond in a penal sum of double the amount of the destroyed or defaced bond, and the interest which would accrue thereon until the principal thereon becomes due and payable, with two good and sufficient sureties, residents of the United States, to be approved by the Secretary of the Treasury, with condition to indemnify and save harmless the United States from any claim upon such destroyed or defaced bond.

The First Comptroller of the Treasury, in his annual report to the Secretary of the Treasury for the fiscal year ending June 30, 1879, under the heading of "Lost and destroyed bonds," after quoting the foregoing sections of the Revised Statutes, used the following language, to wit:

Applications for duplicates, or for the redemption of such bonds, are referred, under regulations prescribed by the Secretary of the Treasury, to the First Comptroller, to be decided upon by him.

It will be perceived that bonds payable to bearer come within the terms of this statute; and the practice has been to issue duplicates for, or to redeem, bonds of this character alleged to have been destroyed, upon evidence furnished by affidavits taken before certain prescribed officers of the United States. The redemption of such bonds and the issuing of duplicates have always been refused until after the lapse of six months from the filing of an application; but even with this precaution the statute is fraught with great danger to the Treasury. In practice it has been found that in fully half the cases where evidence has been offered to establish the fact of destruction the bonds have not been destroyed, but have passed either by theft or collusion into the hands of other holders. When a bond of this kind is lost or stolen, the owner who has been deprived of it is apt soon to persuade himself that it has been destroyed, as only in case of its having been destroyed can he entertain reasonable hope of ever receiving payment. Instances also have occurred of persons offering most impressive evidence of the destruction of bonds alleged to have been owned by them, who, subsequent events have shown, had no title to them whatever. Great vigilance has been practiced by the Treasury by the invocation, even when very slight doubt has been excited, of the aid of the secret-service division; but it is believed that no vigilance can be sufficient to guard against the ingenious methods by which fraudulent applications may occasionally be made successful. If no radical change is made in the existing statute, authority ought at least to be given to require more than two sureties to the bond of indemnity. Indeed, in cases as well of registered bonds as bonds payable to bearer this authority ought to be conferred.

The government issues two classes of bonds, one a coupon bond, payable to bearer, and transferable by delivery from person to person, just as United States notes or greenbacks pass by delivery, and the other a registered bond, transferable only by regular assignment, registered on the books of the Treasury Department.

By section 3706 the Secretary of the Treasury is authorized to issue registered bonds in exchange for, or in lieu of, any coupon bonds which have been, or may be, lawfully issued. Holders of United States securities must be charged with notice of existing laws in regard to such securities, and their rights and remedies under such laws in cases of loss or destruction, in whole or in part.

They have their choice to hold coupon or registered bonds, and the right to exchange coupon for registered bonds. The government cannot be held to be an insurer against thefts, burglaries, loss, or destruction of United States bonds any more or to any greater extent than of United States notes. It has provided remedies in cases of destruction, wholly or in part, and of defacement. It has not been the policy of the government to provide a remedy in case of a mere loss by theft, burglary, or otherwise. Your committee do not believe it would be wise or politic to do so. From the letters of the Secretary of the Treasury, it does not appear that application in this case has been made to the Treasury Department for relief. These bonds were issued under the act of February

25, 1862, and were dated May 1, 1862, and were redeemable at any time after five years from date, and were payable in twenty years after date. They were called in for redemption on March 20, 1872, under a call of December 20, 1871. They do not become payable until May 1, 1882, although interest ceased on them on March 20, 1872. Your committee concur in the recommendations of the Secretary of the Treasury, and therefore recommend that the prayer of the memorialist be not granted, and your committee be discharged from its further consideration.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 99.

IN THE SENATE OF THE UNITED STATES.

JANUARY 14, 1880.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom were referred the petition and papers of George W. J. Crawford, of Benton County, Mississippi, praying compensation for property taken and appropriated by the United States military forces during the late civil war, have considered said petition, and report thereon as follows:

The petitioner sets forth in his petition that, during the late civil war he was a planter, and resided in Marshall County, Mississippi; that he was loyal to the United States; that at different times in the years 1862, 1863, and 1864, personal property belonging to him, and consisting of horses, mules, corn, bacon, and other quartermaster's stores, of the value of $3,110, were taken from him and used by the military forces of the United States; that no vouchers or receipts were given for any of the property thus taken; that it was his intention to prosecute his claim before the Southern Claims Commission, but that he did not know when the time for presenting claims to that commission would expire, and that it did expire before he got ready to present his claim.

An account, showing the different items for which the petitioner makes claim, and the alleged value of each item, is attached to the petition.

Your committee cannot recommend the payment of the claim for the following reasons, that is to say:

1. It is not proved, nor is it even alleged, that the property was taken pursuant to the order of any military officer or authority whatever. There is nothing in the evidence submitted showing that the property, if taken at all, was not taken by the soldiers without any authority whatever.

It has never been claimed that a government is liable to pay for property in the enemy's country taken or destroyed by the unauthorized act of the soldiers.

2. This claim was cognizable before the Southern Claims Commission, and no sufficient excuse is given by the claimant why it was not presented to that commission within the time limited by law.

3. The evidence presented in support of the claim is exceedingly vague and uncertain, and is not, in the opinion of your committee, sufficient to prove the claim in any court.

Your committee, therefore, recommend that the claim be not allowed.

O

CONGRESS, } SENATE. { REPORT
Session. } { No. 100.

IN THE SENATE OF THE UNITED STATES.

JANUARY 15, 1880.—Ordered to be printed.

ıXEY, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill S. 843.]

ɔmmittee on Post-Offices and Post-Roads, to whom was referred the S. 843) providing for the delivery of dutiable articles in the mails, for indemnity for lost registered articles, respectfully submit the folıg report:

Postmaster-General, in his report to the present session of Conɔn pages 31 and 32, uses the following language:

INDEMNITY FOR LOST REGISTERED ARTICLES.

last report I recommended the necessary legislation to enable this department ıt the general regulation of the Universal Postal Union relative to the payment ited indemnity for registered articles lost or destroyed in the United States ervice. The Convention of Paris provides for the payment of 50 francs to the ɔr at his request to the addressee, of a lost registered article, by the adminisapon whose territory or in whose maritime service the loss has occurred, exase of *force majeure*, but stipulates as a temporary measure that the adminıs of the countries beyond Europe, whose legislation is at present opposed to ciple of responsibility, may postpone the application of said regulation until when they shall have obtained legislative authority to subscribe to it. Althe payment of indemnities for registered articles lost or stolen in the mails is tioned by our laws or applied in our domestic service, it is very generally pracother countries of the Universal Postal Union with which we exchange regorrespondence, and I therefore renew the request that authority be given by arry into effect this provision of the Paris Convention, both as to domestic and registered matter.

LECTION OF CUSTOMS DUTIES UPON FOREIGN BOOKS RECEIVED BY MAIL.

nnoying inconveniences and delays to which American students and scholars en subjected in obtaining single volumes of books mailed to them from abroad, quence of the regulation requiring all dutiable articles to be delivered to offithe customs for the collection of duties, have been remedied by a new regulaıpted in pursuance of the authority given in section 17 of the act of March 3, hich provides that books received from countries or colonies of the Universal Union, which are found to be dutiable, shall, when addressed to post-offices ıan the exchange office of receipt, be promptly transmitted by mail to the ad-, charged with the amount of customs duties levied thereon; which amounts ıters at the offices of destination are required to collect on delivery and remit mail thereafter, under registration, to the collector of the customs of the diswhich the exchange post-office of receipt is situated.

r the General Postal Union Treaty concluded at Berne, books received from Union countries which were chargeable with customs duties, were held to be ıble matter, and were immediately returned to the country of origin, thus imı complete embargo on the receipt of books by mail from abroad, and cutting facilities previously afforded by the mails for obtaining early copies of foreign and scientific works. The Convention of Paris readopted the provision of the

Berne treaty forbidding the transmission by mail of any packet whatever containing articles liable to customs duty, but added a stipulation that in case a packet failing under this prohibition should be delivered by one administration to another administration of the union, the latter was to proceed to dispose of it according to its interior laws and regulations. In pursuance of this provision the regulation of this department was modified by directing the delivery of dutiable articles by postmasters at exchange offices of receipt to collectors of the customs, with notice of such delivery to the addressees. Although this modified regulation effected an improvement in the treatment of dutiable books, it was not satisfactory either to the Treasury officials or the public, as it failed in many cases to secure the collection of the customs duties, and subjected addressees residing at places distant from ports of entry to vexatious delays and expenses incident to the employment of agents to pass their books through the custom-house. The new regulation obviates these delays and expenses, by insuring a prompt delivery of books at the office of destination in any part of the United States on payment of the customs duties, and cannot fail to satisfy those of our citizens who are accustomed to the use of the mails as the only practicable means of obtaining early access to foreign publications of scientific or literary interest.

TREATMENT OF OTHER DUTIABLE ARTICLES IN THE MAILS.

A similar regulation is needed for the treatment of other articles of mail matter received from foreign countries, which are subject by our laws to customs duty, and I respectfully recommend that the provision of section 17 of the act of March 3, 1879, authorizing the Secretary of the Treasury and the Postmaster-General to adopt regulations for the delivery to addressees in the United States of dutiable books, with collection of customs duties thereon, be extended to embrace all articles of dutiable matter received in the mails from foreign countries.

As soon as provision is made for the transmission by mail and delivery to addressees of any article of dutiable mail matter received from abroad, it will be possible for this department to conclude arrangements with other postal administrations for the reciprocal exchange of small objects of merchandise, for which no provision is made in existing postal treaties or arrangements with foreign countries. Special arrangements of this character, commonly known as "parcel posts," are in operation between most European countries with satisfactory results, serving as important auxiliaries to commerce, and affording convenient and rapid facilities for the interchange of small articles of scientific, literary, and social interest and importance.

The chairman of the committee addressed a communication to the Superintendent of Foreign Mails, requesting him to furnish the committee with any information in his possession bearing on the subjects embraced in the bill as would aid the committee in arriving at an intelligent conclusion. His reply is as follows:

POST-OFFICE DEPARTMENT,
OFFICE OF FOREIGN MAILS,
Washington, D. C., January 3, 1880.

SIR: In compliance with the request made in your letter of the 29th ultimo, I have the honor to state that the provisions of Senate bill 843 (copy herewith inclosed), which are based upon the recommendations made by the Postmaster-General in his last annual report, are designed to effect the following objects:

The first section of the bill extends to all articles of dutiable mail matter received from foreign countries the benefits of the regulation adopted by the Secretary of the Treasury and the Postmaster-General, under the authority granted in section 17 of the act of March 3, 1879, respecting the treatment of dutiable books received by mail from abroad. Under this regulation, dutiable books are no longer delivered by postmasters to the customs officers at the port of arrival for the collection of the customs duties, but are promptly forwarded by mail and delivered to addressees in any part of the United States, charged with the customs duties to which they are liable, which duties postmasters at the offices of destination are authorized and directed to collect from the addressees on delivery, and promptly remit, under official registration, to the collector of the customs at the port of entry; the sums so collected by postmasters to be kept wholly separate and distinct from postal receipts and accounts, and not in any manner to be credited or charged therein. In other words, postmasters, under this regulation, act as agents for the Treasury Department in collecting customs duties charged on books, and in remitting the duties so collected to the collectors of the customs.

As the law of March 3, 1879, above referred to, restricts the application of this regulation to "dutiable books" "admitted to the international mails exchanged under the provisions of the Universal Postal Union Convention," and as it is very desirable to grant to the public the like advantages of prompt transmission by mail and delivery

:he application of this provision in countries beyond Europe until the re-
;islation could be obtained.
n-iple of paying a limited indemnity for losses of registered articles is
n all European countries, and in many countries of the Universal Postal
other portions of the world. It is desirable that uniformity of practice in
'd should be secured throughout the entire extent of the Universal Postal
d it is for this object that the necessary legislation is requested. It is not a
of any importance in a financial point of view, as comparatively few regis-
:les are actually lost in transmission through the mails.
herewith, for your information, a copy of the October number of the Postal
ich contains, on pages 8 and 9, the existing regulation relative to the trans-
f dutiable books to addresees in the United States; which regulation it is
to apply to all other dutiable articles received by mail from abroad; also a
e Universal Postal Union Convention concluded at Paris on the 1st of June,
beg also to refer you to the Postmaster-General's Report (copy inclosed
, pages 31 and 32, for recommendations under headings "Indemnity for lost
articles," and "Treatment of dutiable articles in the mails."
n, very respectfully, your obedient servant,

JOSEPH H. BLACKFAN,
Superintendent Foreign Mails.

B. MAXEY,
irman Committee on Post-Offices and Post-Roads, &c., United States Senate.

e 6 of the Universal Postal Union Convention, referred to by the
ter-General and the Superintendent of Foreign Mails, is as fol-

6 *of the Universal Postal Union Convention, concluded at Paris June* 1, 1878.

icles specified in Article 5 may be registered. Every registered article is lia-
charge of the sender—
e ordinary prepaid rate of postage upon the article, according to its nature;
fixed registration fee of 25 centimes at the maximum in the European states
centimes at the maximum in the other countries, including the issue to the
a bulletin of posting.
der of a registered article may obtain an acknowledgment of delivery of such
paying in advance a fixed fee of 25 centimes at the maximum.
of the loss of a registered article, and except in case of *force majeure*, there
id an indemnity of 50 francs to the sender, or, at his request, to the addres-
e administration upon whose territory or in whose maritime service the loss
red; that is to say, where the trace of the article has ceased.
nporary measure the administrations of the countries beyond Europe, whose
n is at present opposed to the principle of responsibility, are permitted to
the application of the preceding clause, until the time when they shall have

Section 17 of the act of March, 3, 1879, may be found in volume 20, page 359, United States Statutes at Large, and is as follows:

SEC. 17. That mail matter of the third class shall embrace books, transient newspapers and periodicals, circulars and other matter wholly in print (not included in section twelve), proof-sheets, corrected proof-sheets and manuscript copy accompanying same, and postage shall be paid at the rate of one cent for each two ounces, or fractional part thereof, and shall fully be prepaid by postage stamps affixed to said matter. Printed matter other than books received in the mails from foreign countries under the provisions of postal treaties or conventions shall be free of customs duties, and books which are admitted to the international mails exchanged under the provisions of the Universal Postal Union Convention may, when subject to customs duty, be delivered to addressees in the United States under such regulations for the collection of duties as may be agreed upon by the Secretary of the Treasury and the Postmaster-General.

In the judgment of the committee, there is no good reason to discriminate between books and other dutiable mailable matter.

The second section of the bill is designed to provide for the payment of an indemnity of fifty francs in case of the loss of a registered article exchanged by mail with countries of the Universal Postal Union. It appears by section 6 of the Universal Postal Union Convention of June 1, 1878, that it is provided that "in case of the loss of a registered article, and except in case of *force majeure*, there is to be paid an indemnity of 50 francs to the sender, or at his request to the addressee, by the administration upon whose territory or in whose maritime service the loss has occurred; that is to say, where the trace of the article has ceased."

The Superintendent of Foreign Mails, in the communication furnished in this report, says:

The principle of paying a limited indemnity for losses of registered articles is adopted in all European countries, and in many countries of the Universal Postal Union in other portions of the world.

The principle, it seems to the committee, is equitable, and as the United States is a member of the Universal Postal Union, no good reason is perceived why this government, in this regard, should not conform to the general action of the countries of the Postal Union.

The committee recommend that the bill be amended by inserting in section 1, line 11, between the words "all" and "articles," the word "mailable," so as to limit the indemnity in case of loss of registered articles to such as may lawfully be entitled to transmission by mail; and, as amended, the committee recommend the passage of the bill.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 101.

IN THE SENATE OF THE UNITED STATES.

JANUARY 15, 1880.—Ordered to be printed.

Mr. PLATT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 609.]

The Committee on Pensions, to whom was referred the bill (S. 609) granting a pension to James E. Hargrove, late private Company H, Third Missouri Cavalry, respectfully report:

The claimant applied to the Bureau of Pensions, June 3, 1865, for a pension upon two grounds, viz, for disease of the lungs and disease of the eyes, both alleged to have been contracted in service and in the line of his duty. While this application was pending he filed another application under date of October 3, 1869, alleging disease of the eyes as the sole ground of his claim. The two applications were considered by the Bureau to constitute one case. It appears from record evidence that claimant's lungs were affected when he entered the service. No record evidence exists showing disease of the eyes while in service, and affidavits of comrades filed in the case seem inconclusive. The claim was rejected December 24, 1870, by the Commissioner as barred under the provisions of section 6, act of July 4, 1864, not having been prosecuted to a successful issue within five years from the filing of the claim.

The said act having been repealed there is now no bar to the further prosecution of this claim in the Bureau of Pensions. The committee therefore ask to be relieved from the further consideration of the bill and recommend that the same be indefinitely postponed.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 102.

IN THE SENATE OF THE UNITED STATES.

JANUARY 15, 1880.—Ordered to be rinted.

Mr. PLATT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 663.]

The Committee on Pensions, to whom was referred the bill (S. 663) granting a pension to John J. Fritschy, late captain of Company D, Seventh Regiment New Jersey Volunteers, respectfully report:

It appears that in this case no application for a pension has been made by the claimant to the Bureau of Pensions. Under the rules of the committee, such application and action thereon by the Commissioner are required. The committee, therefore, ask to be relieved from the further consideration of the bill, and recommend that the same be indefinitely postponed.

O

IN THE SENATE OF THE UNITED STATES.

JANUARY 15, 1880.—Ordered to be printed.

. DAWES, from the Committee on Railroads, submitted the following

REPORT:

[To accompany bill H. R. 55.]

e Committee on Railroads, to whom was referred the bill (H. R. 55) granting a right of way across Water Shops Pond, in Springfield, Mass., to the Springfield and New London Railroad Company, have examined the same, and submit the following as their report:

In 1875 the Springfield and New London Railroad Company, incor-
orated under the laws of Massachusetts, and chartered to build a rail-
ad from Springfield, Mass., to New London, Conn., made application
Col. J. G. Benton, commandant at the Springfield National Armory,
or a right of way by means of a bridge, to be constructed by said com-
any, across Water Shops Pond, owned by the United States and used
to furnish power for the machine department of the armory. The com-
pany's application was referred to the Secretary of War, and after a full
examination he gave permission to the company to build the bridge in
the proposed location, on condition that the company should apply to
the next Congress for the necessary legislation to confirm the right, and
the event of failure to secure it, to remove the structure whenever
tified so to do by the Secretary of War.

In accordance with such permission, the bridge was constructed in the
tumn of 1875, and has since been in constant use.

At the first session of the Forty-fourth Congress said company pre-
ted its petition for the purpose above stated, and the same was re-
ed in the House to the Committee on Military Affairs. In February,
, the committee took the subject into consideration, and agreed upon
vorable report; but, in consequence of the unusual interruptions to
egular business of that session, no report was made, and by some
ight all the papers belonging to the case were lost. The failure to
e the needed legislation resulted from no fault or neglect on the part
company.

he Forty-fifth Congress, near its close, a bill to the same effect, on
ommendation of the Committee on Military Affairs, was passed
House without dissent, but no action in the Senate could be se-
efore final adjournment.

pears from the statements of the officers of the government that
railroad is of benefit to the armory, in cheapening freights on
other heavy articles, by the construction and operation of a
k leading directly to the shops, and that the Secretary of War
sire to revoke the permission granted to said company.

mmittee find that the bill carefully protects the interests of
States, and they therefore recommend its passage.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 104.

IN THE SENATE OF THE UNITED STATES.

JANUARY 15, 1880.—Ordered to be printed.

Mr. HOAR, from the Committee on Patents, submitted the following

REPORT:

The Committee on Patents, to whom was referred the petition of C. J. E. Thompson, praying for the extension of his patent for a new and improved connecting link for chain cables, have considered the same, and respectfully report:

The patent which petitioner seeks to extend was granted August 5, 1862, for seventeen years. We are not prepared to affirm that no seventeen-year patent should be extended, but we think such extensions should be granted in very rare cases, and only when it is very clearly proved, *first*, that the invention was of great public value; *second*, that the inventor has failed to receive reasonable compensation for the labor and time spent in perfecting his invention; *third*, that this failure was without his fault; and, *fourth*, that there is a reasonable prospect that the proposed extension would secure him such compensation. Petitioners should be held to reasonably strict proof as to all these particulars. If, by neglect to keep accounts, or for any other reason, whether with or without laches on their part, they are unable to establish their case, they must submit to the operation of the general law.

The petitioner invented a link by means of which broken chains can be quickly reunited without recourse to a chainsmith, which is generally impracticable on merchant vessels, particularly during storms. This is a substitute for repair with ropes, which the chafing of the metal renders of little value for the purpose, and, as is shown by the testimony of several shipmasters, is a substantial addition to the safety of ships.

The petitioner states that he has received from sales of this link for the ten years and nine months ending October 1, 1878, the sum of $37,708.72, and no more. This is confirmed by the affidavit of his attorney, Mr. Carroll, who says that he has examined petitioner's books for said period, which show that result, and by the opinion of Mr. Gunnell, an experienced naval officer, and others, who testify that the sales of such links would not be likely to exceed the amounts stated.

But there is no evidence as to the cost of the invention or introduction of the article, none as to the amount of profit the inventor has received on his sales, and none to satisfy the committee that the advantage to the petitioner is likely to be sufficient to warrant the extraordinary exertion of the power of Congress. It is quite possible that the profits on sales to the amount of thirty-seven thousand dollars, in addition to those made during the early portion of the life of the patent, may have been, if the manufacture and sale were prudently conducted, a very handsome recompense for the time and labor spent in what seems a

very simple, though a very useful, contrivance. The committee cannot recommend to the Senate to grant the petitioner's prayer without being able to give trustworthy information on this point.

We therefore recommend that the prayer of the petitioner be denied and the petition indefinitely postponed.

O

RESS, } SENATE. { REPORT
m. } { No. 105.

N THE SENATE OF THE UNITED STATES.

JANUARY 15, 1880.—Ordered to be printed.

from the Committee on Pensions, submitted the following

REPORT:

tee on Pensions, to whom was referred the petition of Joseph F. , of Wayne County, Illinois, for a pension, respectfully report:

petition it appears that the petitioner was a corporal in the ır, and was pensioned September 22, 1849, for wounds re- ɜ in such service, which pension he received up to the time ment in the Fortieth Regiment Illinois Volunteers, in the war sing the rebellion, by which enlistment he surrendered his ich he now prays may be restored. By the provisions of ex- this pension may be restored upon application to the Bureau upon proof that the disability for which it was granted still such application having been made, the committee ask to be from the further consideration of the petition.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 106.

IN THE SENATE OF THE UNITED STATES.

JANUARY 19, 1880.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1044.]

The Committee on Pensions, to whom was referred the petition of James King, private Company F, First Regiment United States Infantry, having examined the same, with the accompanying papers, find that the soldier was continuously in service from his first enlistment as a volunteer, in 1861, to the date of his discharge for disability, in 1870, from partial paralysis.

His paralysis came on in 1869. His application for pension was rejected because, in the opinion of a board of examining surgeons, the disability was not incurred in the service and in the line of duty.

The medical evidence in the case is conflicting to some extent. The existence of partial paralysis is fully established, and a degree of mental alienation co-exists. Some of the surgeons attribute his present condition to a virulent attack of syphilis, while others declare that it had no such origin. The existence of the last-named disease prior to the occurrence of paralysis is, in the opinion of the committee, established, but whether the paralysis thus originated is very questionable. In consideration of this doubt, and of the additional fact that the petitioner served throughout the war with credit and fidelity, having participated in the battles of Winchester, Cedar Mountain, and Antietam, in 1862, Chancellorsville and Gettysburg, in 1863, and in Sherman's march, in 1864, the committee recommend the passage of the accompanying bill.

O

THE SENATE OF THE UNITED STATES.

JANUARY 19, 1880.—Ordered to be printed.

ɜ, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1045.]

ittee on Pensions, having examined the petition and ac-
papers of Susan Jeffords, who asks a pension as dependent
lmund Jeffords, private Company F, First Maine Heavy
l that the claim is before the Pension Bureau awaiting proof
of the soldier, which is believed to have occurred about the
ril, 1865. This has been the condition of the claim since
ilitary record of the soldier shows that he was wounded in
sburg, in 1864, and sent to hospital, subsequently returned
as, soon after the fall of Richmond, ordered to the front
number of convalescents; that he was admitted to City
al April 14, 1864, and from that date no record exists of
ny intelligence been received by his parents or friends. As
goes to show that the soldier was a man of good character
ice, and the principal stay and support of his mother, whose
ugh living, is unable to work, the committee see little cause
death of the soldier, and as the pension cannot be granted
issioner of Pensions in the absence of proof of death, the
ssible is by special act. The committee, therefore, report
ying bill for her relief.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 108.

IN THE SENATE OF THE UNITED STATES.

JANUARY 19, 1880.—Ordered to be printed.

Mr. MCPHERSON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 617.]

The Committee on Pensions, to whom was referred the bill (S. 617 granting an increase of pension to William H. Hale, report the same adversely, for the following reasons:

It appears that the pension was granted to this claimant on account of a gunshot wound in the left elbow, and was erroneously increased to $15 and $18, respectively. Upon the discovery of the error, it was reduced to $8, the rate now paid.

The committee see no reason why invidious distinction should be made in this case.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 109.

IN THE SENATE OF THE UNITED STATES.

JANUARY 19, 1880.—Ordered to be printed.

Mr. MCPHERSON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 620.]

The Committee on Pensions, to whom was referred the bill (S. 620) granting a pension to Jacob Nix, report the same adversely, for the following reasons:

It appears from the evidence that the said Nix, in 1862, was residing in Brown County, Minnesota, and that on the 18th of August, in that year, he was called into service as a member of the militia by the sheriff of that county to repel an attack of the Sioux Indians upon the town of New Ulm in that county. It further appears that the sheriff had authority, under the laws of Minnesota, to call the militia into active service in such an emergency. The applicant filed a claim for pension on the 11th of June, 1866, alleging disability from a wound in the left arm and a wound in the left hand received at New Ulm on the 19th of August, 1862. The claim was made under the ninth section of the supplementary pension act, approved July 4, 1864, providing pensions for those persons, not enlisted soldiers in the Army, who volunteered for the time being to serve with any regularly-organized military or naval force of the United States, or who otherwise volunteered to render service in any engagement with the rebels or Indians, who are disabled by wounds received in such temporary service. The provision of law under which the claim was originally made was re-enacted without any essential change by section 4693 of the Revised Statutes. In this case the committee are of the opinion that the militia of Brown County having been called into service by the sheriff of said county under authority of law, the members could not be regarded as having volunteered; and that, therefore, the claim based upon such service did not come within the provisions of the law.

The committee are also advised that this has been the uniform rule of the Pension Department since 1871, when like claims were rejected.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 111.

IN THE SENATE OF THE UNITED STATES.

JANUARY 19, 1880.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 991.]

The Pension Committee having examined the bill (S. 991) and the papers accompanying, relative to the claim of David H. Myers for pension, find that the applicant alleges disability from disease contracted while in service, to wit, disease of the liver and catarrh of the bladder.

The soldier entered the service August 29, 1864, and was discharged August 29, 1865, and made application for pension May 6, 1877. Much testimony is filed in the case, tending to show the good health of the applicant at the time of his enlistment and subsequent ill health, but the claim was rejected because the board of surgeons on examining the applicant are unable to find any disease causing disability. In the opinion of the committee this decision is correct, and they ask that the bill be indefinitely postponed.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 112.

IN THE SENATE OF THE UNITED STATES.

JANUARY 19, 1880.—Ordered to be printed.

Mr. MCPHERSON, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred petition of Wallace Pattee, report the same adversely, for the following reasons:

It appears from the papers in this case that the claimant enlisted as a volunteer in September, 1861; that in October, 1863, he became seriously ill, and he claims, as the result of said illness, that he is justly entitled to an invalid pension.

The record of the department shows that he remained in the service, doing garrison duty, taking charge of convalescent soldiers and of government property until July, 1866, when he was mustered out of the service. It will be seen that sufficient disability did not exist between the date of the alleged sickness in 1863 and his discharge in 1866, a period of nearly three years, during which time he was performing arduous duties in the service, to warrant an earlier discharge.

The claim was made on account of fever and its results, the nature of which is not stated. The evidence filed in the case does not mention any particular disability other than sickness, whilst the examining surgeon in 1876 found no indications of disease.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 113.

IN THE SENATE OF THE UNITED STATES.

JANUARY 19, 1880.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom the petition of Mrs. Virginia Grove was referred, find, on examination of the petition and accompanying papers, that Congress is asked to grant a pension to Missouri Hiner, as dependent daughter of David Hiner, late naval pensioner. The said David Hiner was pensioned at the rate of $15 per month in 1867, and died in 1878.

Missouri Hiner (who seeks, through her half-sister, Mrs. Virginia Grove, for pension) is not a daughter, but a stepdaughter, of David Hiner, born before his marriage with her mother, and is now thirty-eight years of age. She is represented by her sister to be feeble-minded, and unable to take care of herself; but no other evidence of this fact is given in the papers. As the law contemplates assistance only to children of the pensioner under sixteen years of age, and as Missouri Hiner is thirty-eight years old, and not the child or blood relative of the late pensioner, the committee cannot recommend a bill for the relief of Missouri Hiner, and ask that further action on the petition be indefinitely postponed.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 114.

IN THE SENATE OF THE UNITED STATES.

JANUARY 19, 1880.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of John Flynn, praying to be allowed an increase of pension, find, on examination of the papers in the case, that the petitioner is now receiving a pension at the rate of $20 per month for the loss of an arm, and now asks for a total-disability pension, stating that in consequence of disease contracted in the service and line of duty he is not able to do any work. Inasmuch as no proof is furnished to sustain this allegation, and as he is already in receipt of the pension allowed by law for the disability proven, the committee ask to be discharged from the further consideration of the case, and that the same be indefinitely postponed.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 115.

IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1880.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

The Committee on Military Affairs, to whom was referred the petition of William B. Guthrey, late Company I, First Regiment Alabama Volunteers, respectfully submit the following report:

In order to ascertain the facts as disclosed by the records of the War Department, a letter was addressed to the Adjutant-General, and his reply thereto is herewith submitted as follows:

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, January 9, 1880.

Hon. SAMUEL B. MAXEY,
United States Senate:

SIR: I have the honor to return herewith the petition of William B. Guthrey, formerly of Company I, First Alabama Volunteers, referred to this office by your letter of December 31, 1879, and in reply to inform you that it appears from the records of this office that Guthrey was enrolled February 4, 1864, at Pulaski, Tenn., and mustered in March 29, 1864, to serve three years in Company B, First Alabama Cavalry. He appears to have been present to August 31, 1864, and on September 22, 1864, to have received a furlough for 15 days, failing to return at the expiration of which he was reported absent without leave, and so continued to be reported until April 30, 1865. On June 30, 1865, he was present with his company and was mustered out with it at Huntsville, Ala., October 20, 1865.

It is not thought that his petition is one requiring the action of Congress.

If he will present reliable testimony to this office substantiating the averments of the petition, and this testimony can in any manner be corroborated by the record, the charge of absence without leave may be removed.

So far as the inclosed affidavit attached to the petition is concerned, t bears *prima facie* evidence of having been written and signed by one

and the same person, to which point the attention of the Senate committee is respectfully invited.

I am, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

By this letter it appears that no action of Congress is needed. If the facts be established by proof, set forth in his petition, his remedy is complete by application to the War Department.

Wherefore your committee ask to be discharged, and recommend that the further consideration of this petition be indefinitely postponed.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 116

IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1880.—Ordered to be printed.

Mr. PLATT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 335.]

The Committee on Pensions, to whom was referred the bill (S. 335) granting a pension to Simeon Crain, of Bath County, Kentucky, respectfully report:

That Simeon Crain was chosen first lieutenant of a company of State guards in Bath County, Kentucky, and with his company was mustered into the service of the State preparatory to being mustered into the service of the United States. Said company was supplied with arms from the State arsenal at Frankfort, Ky. Learning that a body of men were on their way to join the Confederate forces near Prestonburg, the company marched from Owingsville where it was organized to intercept them; failing in this it reported to and was placed under command of General Nelson, commanding United States forces at Olympian Springs. There it was supplied with clothing and other equipments by the United States, and, with other companies similarly situated, was organized into the Twenty-fourth Kentucky Volunteers, and there being no mustering officer there, served several weeks before being mustered into the service of the United States. Early in October, 1861, General Nelson ordered a forward movement in which claimant's company participated. On the evening before such movement, General Nelson in person ordered the guns of the company to be discharged and cleaned. This order was given when the company was drilling and was obeyed. Claimant had in his possession the musket of a private who had been excused from drill on account of sickness which claimant discharged in obedience of General Nelson's order; it burst in his hands inflicting a severe wound in claimant's left hand and wrist from which he has substantially lost the use of his left hand and arm. His wound was dressed by the regimental surgeon, and when his company marched the next morning claimant was left behind. The company was engaged in several skirmishes with the enemy after which it returned to Olympian Springs, and from thence was ordered to Louisville, where on the 12th day of November, 1861, it was mustered into the service of the United States. Claimant went with his company to Louisville but was unfit for muster; there he was placed in general hospital where he remained for some time. Subsequently he went with his company to Mumfordsville where he applied to be mustered in but was refused on account of his wound. At Mumfordsville he was advised and prevailed upon to return home which he did reluctantly. He immediately recruited Company M Seventh Kentucky Cavalry, serving as its captain through the

war with credit and was honorably discharged July 10, 1865. During a portion of his service he was attached to General Granger's staff. Claimant made application to the Bureau of Pensions which was refused upon the ground that he was not technically in the service of the United States at the time of receiving his wound.

In view of the fact that it was through no fault of the claimant that he had not been mustered into United States service, and that he was under command of United States officers, and in the act of obeying General Nelson's personal command when he received his wound, the committee are of opinion that he is entitled to a pension, and recommend that the bill do pass with an amendment striking out the words "who was" in the fifth line, andinserting in lieu thereof the words "as a."

○

6TH CONGRESS, 2d Session. | SENATE. | REPORT No. 117.

IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1880.—Ordered to be printed.

·. PLATT, from the Committee on Pensions, submitted the following

REPORT:

: Committee on Pensions, to whom was referred the petition of Abram I. McCullom, praying for an increase of pension and for the passage of general act providing separate pensions for separate disabilities, respectfully report:

That said McCullom was granted a pension June 4, 1874, of $24 per nth for loss of left arm above the elbow, and a subsequent applica- n for an additional pension on account of wounds in the left shoulder l head has been rejected by the Commissioner upon the ground that h additional pension is not authorized by law. From this decision appeal was taken to the Secretary of the Interior, by whom it was rmed.

The committee discover nothing in this case calling for the passage a special act, and deem it inexpedient to pass a general act of the ture prayed for; and therefore ask to be discharged from the further sideration of the petition.

O

6TH CONGRESS, 2d Session. } SENATE. { REPORT No. 118.

IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1880.—Ordered to be printed.

r. PLATT, from the Committee on Pensions, submitted the following

REPORT:

he Committee on Pensions, to whom was referred the petition of George A. R. Baum, late first lieutenant Company B, Second Louisiana Volunteers, praying for a pension, respectfully report:

That the petitioner was pensioned for a gunshot wound in the thigh, r which he is now receiving $17 per month, the full pension allowed r law to officers of his grade for total disability. He made application the Bureau of Pensions for an increase of pension, alleging that his sability prevents him from pursuing his business as a machinist and gineer, and requires a constant and considerable outlay for medicines d medical appliances. His application has been rejected by the Comissioner upon the ground that he is now receiving the full amount lowed by law.

His case cannot be distinguished from many others in which the pen-on provided by law seems inadequate in view of the disability, and the mmittee therefore ask to be discharged from the further considera-on of the petition.

TH CONGRESS, 2d Session. | SENATE. | REPORT No. 119.

IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1880.—Ordered to be printed.

r. GROOME, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 680.]

he Committee on Pensions, to whom was referred the bill (S. 680) granting an increase of pension to H. Binnamon, have carefully considered the same and report:

That the disability for which the claimant asks an increase of pension s the loss of his right arm, which was amputated about three inches bove the elbow, in consequence of a gunshot wound received on the th day of December, 1863. As the claimant is now, and has been, reeiving the full allowance of pension provided by the general law for uch disability, your committee report unfavorably upon the bill which rovides for increasing his pension, and recommend that the bill be inefinitely postponed.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 120.

IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1880.—Ordered to be printed.

Mr. GROOME, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 870.]*

The Committee on Pensions, to whom was referred the bill (S. 870) granting a pension to Louis Christopher Tiedemann, have carefully examined the same, and find:

That the claimant was a private in Company K, Thirteenth Regiment New York Cavalry, being mustered in on January 5, 1864, and honorably discharged June 23, 1865.

That he swears that while serving as such, in a skirmish which took place on the 6th day of July, 1864, between Leesburg and Stevensburg, Va., he received a gunshot wound and two saber cuts in his left leg and knee. That he was not treated by the regimental surgeon or in any army hospital of the United States, but was immediately taken prisoner by the enemy and taken to Danville, N. C., and from there to Andersonville, Ga., where he was confined for a long period. He also swears that the only officer who was engaged in said skirmish was wounded before the claimant, and that he has made diligent, but unsuccessful search to ascertain his present whereabouts.

The claimant produces the affidavits of a considerable number of persons who claim to have been private soldiers in his own company or other companies in said regiment, who corroborate his statements in regard to his being wounded and taken prisoner in said skirmish.

Most of them also give evidence that he had no wounds or scars on his person up to the time of such skirmish, and had them when, or shortly after, he was discharged from the Army.

The hospital steward of his regiment swears that he was free "from spot or scratch" when he arrived in his presence at the inspection of his regiment shortly before said skirmish; and the examining surgeon testifies that he is now one-half incapacitated from manual labor, and that it is his belief, after careful examination, that his disability did originate in the service in the line of duty, and from the cause indicated.

Some suspicion is thrown over the claimant's case by the fact that the Adjutant-General reports that he does not find the names of several of those making affidavits in the claimant's favor upon the rolls of the companies to which they claim to have belonged; but as the names of about half a dozen of them do so appear, and as the records in the Adjutant-General's office show that they participated in the skirmish, or were in the locality when it took place, your committee feel justified in reporting back the bill with a recommendation that it pass.

O

ONGRESS, } SENATE. { REPORT
ession. } { No. 121.

IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1880.—Ordered to be printed.

MB, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany bill S. 19.]

mittee on Public Lands, to whom was referred bill S. 19, report as follows:

overnment of the United States, in receiving the Western and n States into the Union, stipulated in their several acts of ad- to pay them 5 per cent. upon the sales of the public lands situ- rein. The consideration for the 5 per cent. so reserved is sub- ly the same in each of the enabling acts of said States; that is Ohio and Indiana stipulate that the public lands therein shall exempt from all tax whatever for the term of five years from sale.

, in the compact, stipulates four things:

That she will not interfere with the primary disposal of the soil.

or tax for any purpose the public lands.

hat the non-resident proprietors shall not be taxed more than dent; and

That lands granted for military services in the war of 1812 that located therein shall not be taxed for three years from date of

is—same as Ohio, and the third and fourth stipulations of the mpact.

ama and Mississippi—same as Ohio, and embracing the second rd stipulations of Iowa.

uri—same as Ohio, and including that of Iowa.

igan and Arkansas—same as Iowa.

da—same as the first and second stipulations of Iowa.

onsin, Minnesota, and Oregon—same as the three first stipula- Iowa.

aska and Nevada—same as the second and third stipulations of

as—the same as the first and second of Iowa.

iana—the same as Ohio and Indiana.

stipulations were proposed to the people of the several States gress as the condition of Union, for their "free acceptance or n," and if accepted were to be obligatory on both parties thereto. ere duly accepted by the States, which have, also, faithfully d them.

inding effect of these compacts is specifically recognized and set an opinion rendered by Hon. B. F. Butler, then Attorney-Gen-

eral of the United States, dated March 31, 1836, in passing upon the legal effect of the act for the admission of Alabama into the Union, as follows:

> This proposition, having been accepted by the convention, became and is obligatory on the United States; that is to say, the faith of the nation is pledged to execute it literally, provided the Government of the United States possesses or acquires the ability to do so. (3 O. A. G., 56.)

Since the admission of the several States referred to, in many of them the entire public domain has been disposed of, and within the limits of the others but a small portion remains unsold. The methods of disposition have been various: For cash; in settlement of obligations of the government to its soldiers, represented by military land-warrants; in aid of railroads and canals, and other works of internal improvement; and under the homestead law. The States have as yet made no claim for compensation on account of the lands disposed of in the last two named methods; the government has paid or is in process of paying 5 per cent upon the cash sales, but up to the present time has made no payment to any of the States upon entries of public lands with military land-warrants, though demand has been made for the same.

The only ground known to your committee upon which this payment has been refused is that such disposition of the public domain was not "sales of the public lands" within the meaning of the enabling acts. The right of these States to the 5 per centum upon military locations depends, in the opinion of your committee, largely upon the fact whether as between the government and the soldier, the lands disposed of formed a part of the consideration of his hire. Upon this point your committee have had little difficulty in arriving at the conclusion that such disposition did, in fact, enter into and become a part of the consideration for the enlistment and services of the soldiers to whom land-warrants were issued. The acts of Congress for the benefit of the recruiting service of the United States at the opening of the revolutionary war are dated in August and September, 1776.

The Commonwealth of Virginia about the same time (October, 1776) for the purpose of raising her quota of men and meeting the exigencies of the coming war, also offered lands to her soldiers as part compensation for their military services. These lands thus offered by the legislature of Virginia were afterwards patented by Congress to her soldiers agreeably to the terms of cession made by Virginia to the Federal Government of the Northwestern Territory March 1, 1784.

The several military grants for the war of 1812 are dated December 24, 1811, January 11, 1812, February 6, 1812, December 12, 1812, January 24, 1814, January 27, 1814, February 10, 1814, April 18, 1814, and December 14, 1814.

Those of the Mexican war are dated February 11, 1847, March 3, 1847, September 28, 1858.

It is clear from the language of these grants that they were designed to effect a future object, and in no sense did they relate to a past subject. The time when and the circumstances under which they were passed indicate but too manifestly the aim in view, namely: To facilitate and encourage enlistments, that the requisite numerical force of the Army might be enlarged as rapidly as possible, in order to meet the pressing necessities of each of the impending wars.

At the time the resolution of September 16, 1776, was adopted, Congress owned no land, but expected by conquest to become entitled to all the land which England had acquired by discovery. Anticipating, therefore, the acquisition of large landed possessions, and expecting to

ore land than money, Congress, in order to fill up the rank and he Army, and to raise and complete a regularly-organized mili- tablishment, offered in advance, besides specified monthly wages y, an additional *consideration in land*, not for past, but for serv- reafter to be rendered. The colonial government of Virginia same thing, and her engagement to pay in land was afterward d and fulfilled by Congress, by setting apart for that purpose a of country lying between the Little Miami and Scioto Rivers, in

nilitary grants for he war of 1812 and the Mexican war are of the naracter, enacted at or near the commencement of each, wholly tive in their operation, and are their own best expositors; their g and purpose cannot be misinterpreted. In effect, they said to ty whose military prowess the government so much needed at the Enlist, and serve your country a given period, and you shall have vard therefor a quarter-section of land in addition to your monthly The land thus offered in advance of, and as an inducement to, agement formed as much a part of the contract of enlistment as money compensation. One cannot with any show of reason be ted a gratuity any more than the other; both alike constituted sideration for which the services were to be rendered. It follows, e, that these grants of land for military service in the three great this country are essentially in the nature of contracts; and as come the foundation of the claim which the Western and South- tes now make for the 5 per cent. thereon, according to the terms ompact contained in their several enabling acts; for, if they have ients of a contract, it follows that the lands located thereunder s in legal contemplation, and not bounties in any just sense of m. It involves no other or different principle than if one man say to another, "Work for me twelve months and I will pay you ate of $15 per month and eighty acres of land for such service." ne, in law, discharge his obligation by making the money pay- id withholding the land, upon the pretext of a bounty to be paid t his own pleasure?

this is the proper construction of the military land-warrant acts is abundantly shown by the debate thereon at the time of their . When the act of February 11, 1847, came to the Senate from ise where it originated, an amendment was proposed giving, in n to the monthly pay and allowances and the money bounty, a f land to the soldiers whose enlistment was then sought. The was debated at considerable length, and the result was the stat- erred to. In the course of the debate Mr. Cameron, the mover original amendment, said: "He was desirous that those of our citizens who intended to join the Army might know what they expect. The soldier who fought the battles of his country was ng of reward, and as this government possessed abundance of ne thought no better disposition could be made of a portion of han in rewarding the bravery and patriotism of the soldiers." ssional Globe, 2d session Twenty-ninth Congress, p. 171.

llen, of Ohio, while objecting to the proposition as not sufficiently l and specific, expressed his assent to the principles involved. l he "was one of those who believed that, as between the Gov- t and the citizen great liberality should be observed, more es- as regarded the uncultivated soil of this country. He knew of er use that could be made of the public domain than to reward

the brave and patriotic men who had volunteered to serve in this war." *Ibid.*, p. 172.

Mr. Clayton said: "While graduation bills and pre-emption bills, and other projects for giving away and breaking up the public domain were in vogue, while the land was going, he preferred to see it given to the citizen-soldiers and the regular soldiers of the United States Army; he preferred giving the lands to the soldiers as an inducement to fight the battles of the country rather than give them to the paupers of Europe." *Ibid.*, p. 173.

Mr. Corwin said: "It was a proposition to grant to every soldier who actually served, and to the heirs of every soldier who died in service, an amount equal to $200, which should pass current in any land office for the purchase of land. Instead of paying them in advance, it was paying him at the end of his service this amount. * * * A soldier's service was the hardest that any patriot could be called upon to perform, and he thought that they were entitled to receive at the hands of the government this much at least." *Ibid.*

Mr. Badger said: "If we are to call upon American citizens to enlist in the Army for the prosecution of this indefinite war—to enlist not merely for a certain period, but during the existence of the war, * * * was it not important that they should throw out strong inducements to the people to peril their happiness, their persons, and their lives! He saw in this very circumstance strong reasons why this bill should not be passed without a direct 'pledge' of future bounty on the part of the government to induce men, whether as volunteers or regular soldiers, to make these sacrifices. He desired that every man should see on the face of the law under which the government required the sacrifice from him, the bounty at which the country estimates his service." *Ibid.*, p. 178.

Mr. Butler said: "The great object of giving bounty-lands to soldiers was to encourage enlistments." *Ibid.*, p. 207.

Mr. Webster said: "The object was to obtain the services of the private soldier in the ranks of the Army and in the volunteer corps. * * * The precise point they aimed at was to fill the ranks of the regiments for the efficient defense of the country—the present urgent defense of the country. They asked, therefore, for something which would be an inducement to soldiers to enlist." *Ibid.*

The land-warrants issued in pursuance of the several acts named were certainly in the nature of evidences of indebtedness. The public lands were made available for meeting the demands of the general government in the payment of its soldiery just as effectually by the warrant system as if the lands were first converted into money and the money used in liquidating these demands. Instead of patenting a specified tract of land to the soldier entitled thereto, the government issued to him its written *obligation*, payable in the agreed quantity of land, to be selected from the whole body of the public domain. And these obligations, or "warrants" as they are called, were by law made assignable and were subjected to sale and transfer. In this way they became a species of government scrip, or currency, and persons desirous of purchasing could go into the market and buy the same, and with it secure title to tracts of the public lands whenever the same were subject to sale and entry.

Can it be considered less a case of sale that the purchaser, instead of paying for his land in greenbacks, does so with the government's own paper obligations? The chief difference in the two descriptions of paper is that the first is available for purchasing all commodities indiscrimi-

ately, whilst the latter is limited to the purchase of land only. Suppose the United States had issued pecuniary obligations, *i. e.*, bonds, payble to bearer at a future day, or payable like greenbacks, whenever the overnment should find itself able, but with the proviso that they should e receivable at par in payment for public lands—how would the case of nds paid for with such bonds differ from the present case? The bonds ight have been issued like land-warrants, for military service, or for y other consideration, or for no consideration. They might have been garded by Congress strictly as a gratuity to parties thought to have r any reason deserved well of their country.

This would not affect the question whether lands entered and paid for th such bonds ought to be considered as sold. In either case the government would have received for thus disposing of its lands its own valid tstanding obligations, for the fulfillment of which its faith was plighted, d the surrender of which by the holder would constitute an ample nsideration, legal and equitable, for the conveyance. These considerons apply to the fullest extent to the case of entries of land by means land-warrants.

To your committee it seems that the true solution of the question ether or not land entered by the location of warrants should be conered as *sold* by the government is to be found in the nature of the nsaction at the time of the warrant location, and not in that of its ue.

No land is sold or disposed of in any way by the mere issue of a warnt. That conveys no title whatever to the holder of the warrant for y specific land. The warrant is a mere executory promise or contract, ling for a given quantity of land, to be selected from the body of the blic lands. It is not until the specific tract is ascertained, segregated, d the warrant surrendered in exchange for a certificate of location for articularly described tract or parcel of land, which is to ripen into a l legal title upon the issuance of a patent, that any land can be said have been disposed of by the government; but when the warrant is *ated*, this, to all intents and purposes, is a *sale*.

The term "bounty," as applied to this kind of compensation for miliy services, seems to be inapt. It certainly is not used in its popular se as importing a gratuity, because in the several acts of Congress nting lands to the soldiers in the three great wars of this country "warrants" were not issued in consideration of *past services*, but st be fairly understood as a part of the stipulated compensation proled for by the law under which the enlistment was made for services *reafter to be performed.*

This is made most manifest by the debate above quoted. The object there stated explicitly as being to "encourage enlistments."

In the late war of the rebellion, in order to stimulate enlistments, a cuniary "bounty"—that is, a gross sum in addition to the periodical y—was offered by the government instead of land-warrants to all who ould enlist in the service, and in many instances further "bounties" the same kind were offered and paid by counties and cities in order induce enlistments to fill up their respective quotas of men. Such ers, when accepted and acted upon, have, in repeated instances, been clared by the courts to be valid contracts and have been enforced acdingly.

It will not be contended, as the committee believe, that the agreent to pay the 5 per cent. on the sales of the public lands does not find ufficient consideration in the stipulations of the several States not to erfere with the primary disposal of the soil; not to tax government

land; in some States not to tax lands which the government might sell for five years; in other States not to tax for three years a class of lands in the hands of certain patentees; not to tax non-resident proprietors more than residents, &c.

The rights surrendered by the States were of great material conse-quence to them. The right of taxation inheres in the sovereign power of a State, and is extended over all subjects and descriptions of prop-erty within its jurisdiction. In the relinquishment of the right of taxa-tion the States have lost a very large revenue, far in excess of the 5 per cent. upon all the public lands, whether the same be computed cash sales or upon lands disposed of in payment for military services, or both.

By disposing of the public lands in the manner named, the United States discharged an obligation which was of binding force upon all the States as component parts of the common confederacy. Aside from the legal liability of the government to pay the percentage claimed t the States within whose limits the lands were purchased with militar warrants, it may be suggested that it would be palpably inequitabl that a few States should be called upon to contribute so largely in th discharge of the nation's indebtedness. But when it is considered th the general government and the eighteen States claiming relief und the bill submitted for the consideration of your committee entered in a solemn compact, partaking of the mutuality of a legal contract; th the States, in order to secure the 5 per cent. on the disposal of the pub lands, agreed to surrender rights indisputable and of great value them if retained, and that in good faith this agreement has, in eve respect, been faithfully kept on the part of the States, there seems to no good and sufficient reason, in the judgment of the committee, why t United States should be relieved of its obligation to pay the clai which the States have presented for adjustment.

The payment by the general government to the several States of f per cent. upon the cash sales made, during a period of over seve years, would seem to be conclusive against the government upon question of consideration.

The bill under consideration proposes to capitalize the lands taken by the location of military land warrants, at one dollar and twe five cents per acre. This has been the minimum price of the gove ment lands ever since there was a public domain. The price fixed c not, therefore, be considered unfair to the government. It will also noted that in the debate quoted upon the act of 1847 Mr. Corwin sta the value of the 160 acres proposed to be offered as a consideration enlistments at two hundred dollars; the market value of the warra issued under the act also tends to fix the value of the land.

Your committee has also been pressed to consider the obligations the government to the several States on account of lands granted the purpose of aiding in the construction of railroads, and other wo of internal improvement, and also for lands disposed of under homestead law.

The grants for railroads and other internal improvements were nearly or every instance made to the States direct for the use of the terprise to be aided. In accepting these grants the States fairly wai the right to the 5 per cent. compensation upon such lands, and grants were, besides, generally of great special benefit to the States which the grants were made. Besides, no consideration except the affecting the growth and general prosperity of the country passe the general government.

The lands disposed of under the homestead law stand upon a di

footing. Their disposition in that particular manner was under-
n without the consent of the States, and while nominally a gift to
ettlers, the fees exacted are such as result in a considerable profit
e government over and above the costs of selling and patenting.
owever, the passage of the homestead law worked a radical and
cent change in the public-land system of the government, and one
more beneficial to the States whose limits then embraced public
than the one theretofore prevailing, the obligation against the
ment on account of lands thus disposed of is not very strong if at
sting.

committee, therefore, propose to so amend the bill as to exclude
onsideration hereafter the question of compensation for these two
of lands, and make the acceptance of the compensation provided
this act a waiver of all claim on account of the disposition of
or internal improvements and under the homestead law.

with these amendments, the committee recommend the passage
bill.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 122.

IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1880.—Ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 377.]

The Committee on Military Affairs, to whom was referred the bill (S. 377) for the relief of Robert Ewing, have considered the same, and make the following report:

That this bill is intended to direct the Secretary of War to so change the military record of said Ewing as to make it appear that he was duly mustered as a veteran (Company H, Forty-third Regiment Indiana Volunteers) October 12, 1864, and entitled to receive the veteran bounty. The records of the War Department conclusively show that the claimant was at no time prior to April 1, 1864 (the date of expiration of the period within which veteran bounty was allowed for re-enlistments), eligible to re-enlistment as a veteran. In opposition to this record there is only the affidavit of the claimant himself.

His case does not come within the provisions of the law of which he claims the benefit, and the committee therefore recommend that the bill for his relief do not pass.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 123.

IN THE SENATE OF THE UNITED STATES.

JANUARY 19, 1880.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 39.]

The Committee on Pensions, to whom was referred the bill (S. 39) granting an increase of pension to James H. Reeve, recommend that the bill be amended by striking out of lines 5 and 6 the words "from June 28, 1865," and by striking out of line 7, before the word dollars, the words "twenty-four" and inserting in lieu thereof the word "thirty," and as so amended recommend the passage of the bill.

O

I THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

ON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1088.]

tee on Claims, to whom was referred the claim of Claude H. rriving partner of the firm of Le Vert & Masten, of Mobile, himself and in behalf of the children of Octavia Le Vert, widow ased partner, report as follows:

n was reported favorably from the Senate Committee on ne 1st of February, 1875, by Senator Wright, of Iowa, then the committee. It was again reported favorably from the ttee April 22, 1878, by Senator Hereford, of West Virginia. is made up of rent of hospital for six months, from the 15th the 15th of October, 1865, $1,200; damages to the same by es troops, $510; cash paid for survey, $25; six beds, mat- $50; making, $2,085.

n was taken of this hospital by Union forces in the spring the use of sick and wounded officers; Dr. Abidie, chief er of General Canby's command, thinking it desirable to se of it for such purposes, and agreeing to pay a liberal rent

alleges that, with the expectation that it would then be to the firm on July 1st of that year, an account was made ate, including the estimated cost of repairs, which was made of survey, and that this was done on the suggestion of the officer, General Kilby Smith. That, instead of being thus it was taken possession of by the Quartermaster-General's , and not finally released to him until about the middle of

t of his claim the evidence, without recapitulating it, estab- llowing facts:

ing was taken possession of by the United States under an nade on the part of the United States by Dr. Abidie, chief er of General Canby's command, to pay a liberal rent there-

ing was used as a medical hospital from the time possession April to some time in June, 1865, about two months. After ars to have passed into the control of the Quartermaster's , such control continuing until about the middle of October year.

for rent from the 15th of April to the 28th of June, amount- m of $500, for damages done to the building and for furni- d and expenses in estimating damages, amounting to $585, ed to the proper department, and payment thereof recom-

mended by Colonel Wickersham, chief quartermaster of the Departme of Alabama, his indorsement upon the papers reciting as follows:

I am satisfied that the claimant is justly entitled to a fair compensation for t use by the government of the Le Vert hospital, of Mobile, and also that the rate rent, &c., claimed is reasonable and just.

Captain McIntosh, in referring the claim to Colonel Wickersha strongly recommended that the claim be allowed. General Canby, the date of November 14, 1866, says—

That this property was excepted from seizure and occupation, on the captur Mobile, on account of reputed loyalty and kindness to Union prisoners of one of owners, Mrs. Le Vert, but was subsequently rented by the medical director of command as a hospital for sick and wounded officers. It was expressly excepted f capture and protected by General Order No. 20, from the headquarters of the Ar Division of West Mississippi. I recommend that the sum charged as rent be allo and paid. The sum charged as damages cannot be allowed in that shape, but recommended that the Quartermaster's Department be directed to restore the prop to the condition in which it was found when taken; two-thirds of the expenses t borne by the government and the other third by claimants, or that a proporti allowance be paid in lieu of this. The charge made by the board of survey, bei the interest of the claimants, should be borne by them.

These papers being laid before the Quartermaster-General, he that "Mobile having been a hostile city captured by our troops fro enemy who did not surrender on terms but was driven out by forc arms, everything in it was prize of war, as at Atlanta, &c. It does appear that the military department should order payment for any under such circumstances."

On the 20th of November, 1866, the claim, as above recommende the officers, was, by the order of the Secretary of War, referred t Claims Commission.

On the 16th of March, 1867, this commission decided that it appe from the papers and evidence that this claim comes within the pro tory clauses of the act of Congress approved July 4, 1864, as ame and construed by the act of the Thirty-ninth Congress, entitled act to declare the sense of an act entitled 'An act to restrict the j diction of the Court of Claims, and to provide for the payment of tain demands for quartermaster's stores and subsistence furnish the Army of the United States,'" received by the President on th day of February, 1867; and it was therefore rejected.

As to the value of the use of the premises, it may be conceded the fair rental, after possession was taken by the Quartermaster's partment, was that fixed by Colonel Wickersham in his indorse before set forth.

In addition to the evidence of loyalty above set forth, we fin following. (Here we quote from the statement of one witness, w presents the facts substantially as they are detailed by others.)

Mr. C. F. Moulton, at one time city judge, and now mayor of M says:

I was well acquainted with Dr. Le Vert. I knew him about fifteen years p his death. He died during the late war, after a most protracted illness. Duri illness I was frequently with him. In sentiment he was a thorough Union man with regard to Madam Le Vert, I can say, with the utmost truthfulness, that n in America surpassed her in her real love for the Union of these States; and f devotion, none but herself and her God can know the suffering she has endure the 12th day of April, 1865, as General Granger entered the city of Mobile at th of the United States forces, her house was opened for his reception. For seve the chief officers of the Army remained at her house, it being the only instance pitality being offered to Union Army officers then in this city. Soon thereafte the late Chief Justice Chase and daughter visited Mobile, they were hospitabl tained by Madam Le Vert and daughter. For her Union sentiments and hospit Federal officers, especially to Judge Chase, she and her daughter have been v

od citizen. And I cheerfully state that if all men of his intelligence, in States for the past eight years had followed his example, peace and uld here exist. Murder and political persecution would not depress and t of our country as it does to-day.

on to the foregoing, it is shown from the evidence in the case me was referred, August 14, 1865, by Bvt. Maj. Gen. John Brig. Gen. Thomas Kilby Smith, whose headquarters were Ala. In General Smith's report he says:

ems to be a most deserving one.

* * * * * *

nestly recommend the appointment of a board of officers to determine f this claim, or that such other action be had as will lead to its speedy

ently it was referred to Col. M. D. Wickersham, chief quar- Department of Alabama, at Mobile, by Brig. Gen. J. Q. Dana, onel Wickersham referred to Capt. Alexander McIntosh, as- rtermaster, for investigation and report. Captain McIntosh t says that he "finds that the statements made by Dr. Masten the same are substantially correct," and, as heretofore stated, recommends that the claim be allowed."

is evidence the committee find the following facts: That her as "excepted from seizure and occupation in the capture of d was subsequently rented by the medical director of the of General Canby, and by his previous order or subsequent ."

erty was in the possession of the medical director for hospi- s for two and one-half months, from April 15, 1865, to 28th e, same year; subsequently it was turned over to the Quar- General's Department, and thus remained until October 12, , by order of General Canby, it was returned to the owners, ment having possession of it six months; which, at a rental month, aggregates $1,200. As to the injury to the property ttee decline to recommend any allowance, holding that the wed for rent covers the whole amount due from the govern-

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 126.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

LOGAN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1100.]

'hat the bill for the relief of Solomon Morris, late sergeant Company Thirty-eighth Illinois Volunteers, for pay and allowances as second ıtenant of said company and regiment, is based upon the facts as lows:

[our committee have carefully considered the evidence and find that : claims of said Solomon Morris, for pay and allowances from July 30, 3, less the pay of a sergeant already received to the date of his mus- out, March, 1865, is based upon equitable grounds, he having per- med the duties of second lieutenant to the date of his capture at the tle of Chickamauga, September 20, 1863. He was not permitted to to a mustering-officer on account of the Army being under orders. ; failure to be mustered was not caused by any neglect or omission his part. He is fairly and legally entitled to the relief sought by the , and therefore recommend its passage.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 127.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 426.]

The Committee on Military Affairs, to whom was referred the bill (S. 426) for the relief of Patrick Sullivan, have had the same under consideration, and beg leave to make the following report:

A similar bill was considered by your committee at the second session of the Forty-fifth Congress, and was favorably reported to the Senate. It passed this body on the 22d of April, 1878, but did not receive action in the House.

Your committee submit the report made then, which they now adopt. It is as follows:

Mr. RANDOLPH, from the Committee on Military Affairs, submitted the following report, to accompany bill S. 455:

The Committee on Military Affairs, to whom was referred the bill (S. 455) for the relief of Patrick Sullivan, have had the same under consideration, and submit the following report:

It appears that Patrick Sullivan, a citizen of Wisconsin, was commissioned by Governor Harvey, of that State, a first lieutenant in the Nineteenth Regiment Wisconsin Volunteers, on the 8th of January, 1862, with authority to recruit men for said regiment, with the understanding, as was usual in recruiting volunteers for the war for the suppression of the rebellion, that should he recruit the necessary number of men he should be made a captain. Thereupon he began recruiting for said regiment, and on February 8, 1862, had succeeded in recruiting 64 men, rendezvoused at Fox Lake, Wis. On the 8th of February, 1862, he received orders from Colonel Sanders, commanding said regiment, to bring his recruits into camp at Racine, Wis., which order he obeyed, paying all expenses of subsistence and transportation from his private purse, the funds for which he had realized from the sale of his home, the only piece of property he owned.

Upon delivering his 64 recruits into barracks at Racine, as ordered, not having a full complement of men to entitle him to a captaincy, but having sufficient for a first lieutenancy, he left those he had recruited in charge of his orderly sergeant and went out in search of additional men, returning in two weeks with eight more, sufficient, if accepted, to secure his commission as captain.

When he arrived at barracks at Racine with his said additional eight men, he found that, in his absence, his 64 recruits had all been distributed to fill other companies, and had been duly mustered into the service by Captain Trowbridge, mustering-officer. Upon demanding an explanation of this extraordinary proceeding, he was informed that a commission as lieutenant had been obtained for one Tuckerman, and that said Tuckerman had been mustered into service, during his absence, in his place. He then demanded to be mustered in as a first lieutenant, which the mustering-officer refused, on the ground that the regiment had then full complement of officers. And so, after all his arduous services and large expenses, notwithstanding his commission from the

governor of the State, Sullivan was left out in the cold, without a command, and not ing to show in return.

Smarting under this cruel treatment, and yet firm in his patriotism, it appears Sul van proceeded at once to Chicago, and there enlisted as a private soldier in the Thi Board of Trade Regiment, in Captain Marks's company, was transferred to the Eigh second Regiment Illinois Volunteers, went to the front, and rendered honorable se ice. He was severely wounded in the battle of Chancellorsville, lay on the field th days, robbed of his papers and commission and his watch and money, and was fin picked up by the Confederates, carried into shelter, and his left leg amputated.

Six days thereafter he was returned to the Federal lines, sent to hospital, wh after his recovery, he was honorably discharged the service, and is now a pensio on account of the loss of his leg.

Owing to the fact that all his papers and accounts were lost on the battle-fie Chancellorsville, where he lay severely wounded, he is unable to produce any m oranda or vouchers of his expenses paid in recruiting the seventy-two men referre and therefore the exact amount of such expenses cannot be definitely stated. Bu estimates the same as follows:

For subsisting 64 men at an average of 40 days each, at 50 cents per day...	$1,2
Transportation paid at half-rates, Fox Lake to Milwaukee, at $1.25.....	8
Transportation of same from Milwaukee to Racine	6
Expenses of traveling through three counties, Dodge, Little, and Big Green, gathering men, with incidentals of all kinds.....	3
Paid for use of rendezvous, fuel, &c.....	1
Petitioner's services 60 days, at $2.....	1
Total expended	1,9

Considering the difficulties surrounding recruiting men in the far West—trav from place to place where intercommunication was not easy, gathering a man and a man there, transporting and subsisting them until they could be bro into quarters, a perplexing condition of affairs well known to all who have had perience in such matters—the account of the petitioner does not seem unreason nor extravagant. At the time Sullivan recruited these men, everything in the natu subsistence and other incidental expenses was high, and it is undeniably the fact men were hard to obtain. The Union forces had suffered great reverses, and goi war with all its attendant risks, separation from family and home-ties, and aban ment of business pursuits, was by no means a pleasurable matter. On the contra was, perhaps, the gravest of all grave incidents of human life.

After having, at his own expense, succeeded in raising the necessary compleme men and delivered them in barracks, it was Sullivan's right to have been must either as captain of a company or as a first lieutenant, under his commission fro governor of the State. Your committee regard the action of depriving him of right as utterly indefensible, if not criminal. The product of his toil and expense taken from him by the muster of his men into other companies, securing commis for officers who had no part or parcel in recruiting them, and he was literally tu into the street beggared, his little home, which he had sold, lost to him, and left ut without redress.

Notwithstanding this cruel treatment, his patriotism never flagged. His enlist as a private soldier and subsequent grievous wounding and loss of his left leg at C cellorsville attest his merit, and show, as your committee believe, that he was actu by higher motives than the mere aggrandizement of a commission. The facts proved by accompanying papers, and the only question to be determined is the am which petitioner should be paid by way of reimbursement for his outlay in this be The amount charged for his individual services, to wit, $2 per day, is far less tha pay and emoluments of a first lieutenant, the rank which he was by commission tled to hold. The gross amount, so far as your committee is advised, is rather u than in excess of the ordinary expenses of recruiting, subsisting, transporting, rendezvousing sixty-four men under the then existing circumstances.

The premises considered, your committee conclude that the claim of Patrick Sull is predicated upon justice; that he was wrongfully and illegally deprived of his m under his commission; and that he is entitled to be reimbursed for the sum expe by him in so recruiting to a reasonable amount. Inasmuch as he cannot furni itemized account of the said expenses, except by estimate, this owing to the loss papers aforesaid, your committee recommend that he be paid the round sum of $ in full settlement thereof, being a deduction of $469 on the amount provided b bill, this by the way of compromise, and without in any way impugning or que ing the fairness of the items estimated by him.

Your committee, therefore, report the accompanying amended bill, and recom passage of the same.

O

CONGRESS, } SENATE. { REPORT
Session. } { No. 128.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

REFORD, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 707.]

mittee on Claims, to whom was referred the bill (S. 707) for the relief of William W. Ross, report as follows:

ilar bill was examined and reported upon during last Congress, ıary 20, 1879, by Senator Cockrell, for said committee.

committee find the facts set forth in said report to be correct, ›pt said report, which is as follows:

.ll pays William W. Ross, of Sparta, Oreg., $66.63, amount charged against he Post-Office Department for money, stamps, and envelopes destroyed by 13, 1874.

›mmittee referred the petition accompanying the bill to the Postmaster-Gen- nformation and report, and received the following reply, to wit:

POST-OFFICE DEPARTMENT,
OFFICE OF THIRD ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., January 16, 1879.

y direction of the Postmaster General I have the honor to acknowledge re- your letter of the 13th instant, inclosing the bill (S. 1571) for the relief of W. Ross, postmaster at Sparta, Oreg., for "money, stamps, and envelopes," l by the burning of his office, July 13, 1874, and to inform you that the only ion in possession of this department in relation to the matter is contained in filed in this office by the postmaster shortly after the occurrence of the fire, ate his loss as follows:

ınd envelopes	$10 00
›llected during the quarter previous to the fire	51 30
›er postage collected for the quarter in which the fire occurred	5 33
tal	66 63

:hese affidavits, credit was allowed Mr. Ross to the amount of $3.16, that being › of postage-stamps and stamped envelopes which an estimate made in this ›wed him to be in possession of at the date of the fire. For the funds alleged ›een burned, no credit was given him, the department not having any au- › allow for money lost; but it has been ascertained that the amount of funds nds at the time was about as stated.

›e copies of the affidavits referred to, and would suggest that if it is decided favorably upon the claim of Mr. Ross, the allowance already made for the amps should be deducted.

›pers inclosed in your letter are herewith returned.

ry respectfully, &c.,

A. D. HAZEN,
Third Assistant Postmaster-General.

. M. COCKRELL,
United States Senate.

The affidavits accompanying the above report show conclusively the burning of the post-office building and contents, about 3 o'clock a. m., July 13, 1874, and the impossibility to save anything.

The affidavit of Mr. Ross, the postmaster, and the report of the Postmaster-General as above, constitute all the evidence as to amount of loss, &c., and the statement in the above report corresponds with affidavit of Ross.

Ross claims $10 for stamps and stamped envelopes, and upon this claim the Post-Office Department made an estimate of the amount of stamps and envelopes shown to be in his possession, and made the amount $3.16 instead of $10, and allowed him credit therefor; so that the $10 claim for stamps and envelopes is fully settled. The other two items, amounting to $56.63, as reported by the Post-Office Department, correspond with amount supposed to be in his hands.

Your committee recommend payment of $56.63.

Your committee recommend the passage of the bill.

O

CONGRESS, } SENATE. { REPORT
l Session. } { No. 129.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

ɔCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 187.]

ommittee on Military Affairs, to whom was referred the bill (S. 187) the relief of Samuel Castleman, have duly considered the same, and nit the following report:

s bill requires the Secretary of the Treasury to pay to Samuel ɔman, of Louisville, Ky., $310, in full of his claim for compensa- 'or services rendered as clerk in the assistant adjutant-general's of Louisville, Ky., from September 6 to November 25, 1862.

ır committee referred the bill, on April 1, 1879, to the Secretary of for information and report, and received through him the follow- ɜtter from the Adjutant-General, to wit:

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, April 14, 1879.

: I have the honor to return herewith Senate bill 187, for the relief of Samuel man, referred to this office for report, and to transmit, for the information of nate Military Committee, copy of the original application, on behalf of Castle- for pay for services rendered as clerk in the office of the assistant adjutant- al Third Corps Army Ohio, and Tenth Division Army Ohio, and the action of epartment thereon, together with transcript showing action taken on Castle- claim again presented through the Third Auditor of the Treasury in December,

ther the records of this office nor those of discontinued commands filed here sh any further information on the subject.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

ıe Hon. SECRETARY OF WAR.

---

he copy of the original application on behalf of Mr. Castleman, for , and the action of the department thereon, referred to in the fore- ng letter, are as follows, to wit:

WASHINGTON, D. C., *September* 28, 1863.

JAMES A. HARDIE,
A. A. G., Adjutant-General's Office:

OLONEL: I have the honor to inclose herewith vouchers of Samuel Castleman, unting to $310, for services rendered as clerk in the adjutant-general's office at lquarters of General Gilbert.

ese claims have been presented to the Quartermaster's Department for settle- and refused payment, saying that there is in the Adjutant-General's Office, hington, a fund for settlement of such claims.

Your attention is respectfully invited to this matter, and an answer at your earliest convenience.

I am, colonel, very respectfully, your obedient servant,

H. M. FRANCIS.

Address: Care Col. James B. Fry, *Provost-Marshal-General.*

[Indorsements.]

ADJUTANT-GENERAL'S OFFICE,
October 6, 1863.

The fund referred to is for purchase of furniture and miscellaneous articles not furnished from quartermaster funds, and is only of small amount. It is not applicable to the payment of citizen clerks; neither should such clerks be paid from quartermaster funds. There is no authority to employ them.

Respectfully submitted.

E. D. TOWNSEND,
Assistant Adjutant-General.

Report of Adjutant-General approved.

By order of the Secretary of War:

JAMES A. HARDIE,
Assistant Adjutant-General.

WAR DEPARTMENT, *October* 6, 1863.

Transcript from E. B. 23, 460.

[Indorsement on 7688, 8, Adjutant-General's Office, December 10, 1877.]

Third Auditor refers, for the information and action of the Adjutant-General, claim of Samuel Castleman, for services as clerk in office of assistant adjutant-general at Louisville, Ky., in 1862—$60 and $250.

[Second indorsement.]

Respectfully returned to the Third Auditor, Treasury Department, with report that in the year 1863 the inclosed vouchers were presented for payment to the department by H. M. Francis, who stated that the claim had been presented to the Quartermaster's Department and payment refused, with the information that the Adjutant-General had a fund for the settlement of such claims. The following is the report of the Adjutant-General to the Secretary of War on the case at that time:

"The fund referred to is for purchase of furniture and miscellaneous articles not furnished from quartermaster's funds, and is only of small amount. It is not applicable to the payment of citizen clerks; neither should such clerks be paid from the quartermaster's funds. There is no authority to employ them."

The report of the Adjutant-General was approved by the Secretary of War October 6, 1863, and the vouchers returned to the claimant.

The signature of General Gilbert, and those of the acting assistant adjutant-generals attached to the vouchers, appear to be genuine; but it is not seen how the claimant can recover the amount except by private demand on the officer by whom he was employed without authority.

E. D. TOWNSEND,
Adjutant-General.

ADJUTANT-GENERAL'S OFFICE, *January* 3, 1878.

ADJUTANT-GENERAL'S OFFICE,
Washington, April 14, 1879.

Official copy of letter and transcript.

E. D. TOWNSEND,
Adjutant-General.

To accompany letter this date to Secretary of War.

Your committee again, on December 9, 1879, referred the bill to the Secretary of War, asking for any additional information in his office and received from him the following letter, to wit:

WAR DEPARTMENT,
Washington City, December 17, 1879.

SIR: Acknowledging the receipt of your communication of the 9th instant, requesting to be furnished with copies of vouchers or other papers that may have been filed in this department by Mr. Samuel Castleman, in support of his claim for compensation for services rendered as clerk in the assistant adjutant-general's office at Louisville, Ky., in the year 1862, together with certain specific information in relation to said claim, I have the honor to inclose herewith a report of the Adjutant-General, dated the 15

and an accompanying abstract from the records of this office, which, in con-
with his report of April 14 last, the receipt of which you mention in your
resent all the facts in the case that appear of record in his office.
ery respectfully, your obedient servant,

ALEX. RAMSEY,
Secretary of War.

F. M. COCKRELL,
United States Senator.

letter of the Adjutant-General referred to in the foregoing letter
llows, to wit:

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, December 15, 1879.

have the honor to return herewith communication from Hon. F. M. Cockrell,
enate Committee on Military Affairs, asking for copies of the vouchers and
s in support of the claim of Samuel Castleman (S. bill 187, Forty-sixth Con-
st session), supposed to be filed in this department, and to invite attention to
sed transcript from the records of this office, showing that the vouchers in
were returned to the Third Auditor of the Treasury January 3, 1878.
y of the original application on behalf of Castleman, showing the action of
rtment thereon, was transmitted to the Secretary of War with letter of April
from this office, for the information of the Senate Military Committee.
orted in that letter, neither the records of this office nor those of discontinued
ds filed here furnish any additional information in the matter.
have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

Hon. SECRETARY OF WAR.

committee then applied to the Third Auditor and received from
e original vouchers, which are made out on the regular form No.
he Quartermaster's Department, in duplicate, and are as follows,

No. 22.

The United States to Samuel Castleman, Dr.

r services as clerk in the assistant adjutant-general's office at General
t's headquarters, from September the 6th, 1862, to November the 6th,
nclusive, at the rate of one hundred and twenty-five dollars per month.. $250
ved and payment ordered by command General Gilbert.

J. EDWARD STACEY,
A. A. A. G.

ify that the above account is correct and just, that the services were rendered
d, and that they were necessary for the public service.
ved.

C. C. GILBERT,
Brig. Gen. Vols., Commanding Third Corps.

No. 22.

The United States to Samuel Castleman, Dr.

rices as clerk in the assistant adjutant-general's office, headquarters fif-
h division Army of the Ohio, from November the 7th to November the
1862, inclusive, at the rate of one hundred dollars per month..... $60

ify that the above account is correct and just, that the services were rendered
d, and that they were necessary for the public service.

JOHN SPEED,
Lt. & A. A. A. G.

ved.

C. C. GILBERT,
Brig. Gen. Vols.

indorsements on these vouchers are the same as those heretofore

The decisions of the accounting officers are as follows:

Decision by Third Auditor upon the claim of Samuel Castleman for salary as clerk in the assistant adjutant-general's office, headquarters tenth division, Army of the Ohio, from September 6, to November 24, 1862, inclusive, at the rate of $125 per month $310

TREASURY DEPARTMENT,
THIRD AUDITOR'S OFFICE,
January, 25, 1878.

There was no authority of law for employing this claimant in the capacity stated, and consequently no fund from which payment could or can now be made.

The claim is disallowed. The papers, with this decision, will be transmitted to the honorable Second Comptroller for his decision.

HORACE AUSTIN,
Third Auditor.

TREASURY DEPARTMENT,
SECOND COMPTROLLER'S OFFICE,
April 30, 1878.

Respectfully returned to the Third Auditor. The report—decision—of the Auditor dated January 25, 1878, is approved, and this claim is disallowed. See the Report of the Adjutant-General of the Army, dated January 3, 1878, herewith.

W. W. UPTON,
Comptroller.

All the information and evidence to guide your committee are set forth in the foregoing documents. The vouchers hereinbefore copied are admitted to be genuine, and were presented to the Quartermaster's Department in 1863 for payment, and payment refused; and on September 28, 1863, were presented to the Adjutant-General for payment, and payment refused, because there was no authority in law for the employment of Mr. Castleman as a civilian clerk. No further action seems to have been taken from October 6, 1863, to December 10, 1877, when the Third Auditor referred the claim to the Adjutant-General for information and action, and the Adjutant-General reported to the Secretary of War the former action on said claim in 1863; and on January 3, 1878, it was again decided there was no authority in law to employ Mr. Castleman, and "it is not seen how the claimant can recover the amount, except by private demand on the officer by whom he was employed without authority."

Your committee do not find any authority in law for the employment of Mr. Castleman as a civilian clerk in the assistant adjutant-general's office at Louisville, Ky., by General Gilbert, or any other officer of the Army. The officers of the Army were acting under and deriving all their authority from the Constitution, the laws, and the rules and regulations of the Army. Outside of these they had no authority; and knowledge of their authority is, by legal presumption, known to every citizen. In the alleged employment of Mr. Castleman they acted without authority of law, and could not, therefore, bind the government, and became personally liable for their acts and for their employment of Mr. Castleman, of which due notice was given to Mr. Castleman in 1863. Whether Mr. Castleman asserted his claim against the officer employing him without authority, as he was notified in 1863, your committee have no means of knowing.

Whether he did or not cannot change the non-liability of the government. It would be a dangerous precedent for your committee, after the lapse of fourteen years since the actual close of hostilities, and after ample provisions had been made by law for the adjustment and payment of all claims for services of employés during the war, to undertake to pass upon and allow claims of civilians alleged to have been employed here and there during the war by officers of the Army to do certain work, for the performance and payment for which ample

rovisions had been made and then existed under the law. No one can, oluntarily, by the mere performance of services useful to the govern-ent, make the government his debtor. Ample provision had been made r securing the performance of the very services alleged to have been erformed by Mr. Castleman and for their payment, and the officers in ommand at Louisville had no authority whatever to ignore the means rovided by law for securing the performance of such services; and if ey did, the claimant must resort to them individually. No necessity hatever is alleged to have existed for the action of the officers in the nployment of Mr. Castlemen.

Your committee, therefore, report the bill back to the Senate, and rec-nmend that it be indefinitely postponed, and that the claim of Mr. astleman therein be not allowed.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 130.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 219.]

The Committee on Military Affairs, to whom was referred the bill (S. 219) relating to certain brevet appointments, have duly considered the same, and submit the following report:

This bill proposes that the second section of an act entitled "An act to amend the act of April 10, 1806, for establishing rules and articles for the government of the Armies of the United States, approved March 1, 1869," shall not be held to embrace officers who were confirmed by the Senate for brevet appointments on March 3, 1869. The act of April 10, 1806, was "An act for establishing rules and articles for the government of the Armies of the United States." The sixty first article of said act is as follows, to wit:

Officers having brevets or commissions of a prior date to those of the regiment in which they serve, may take place in courts-martial and on detachments when composed of different corps, according to the rank given them in their brevets or dates of their former commissions; but in the regiment, troop, or company to which such officers belong, they shall do duty and take rank both in courts-martial and on detachments which shall be composed of their own corps, according to the commissions by which they are mustered in the said corps.

Section 1 of the act of March 1, 1869, provided "that the sixty-first article of an act for establishing rules and articles for the government of the Armies of the United States, approved April 10, 1806," be, and is hereby, repealed. The said sixty-first article, so repealed, has never since been re-enacted, and is not now a rule or article of war. Section 2 of the act of March 1, 1869, which this bill proposes "shall not be held to embrace officers who were confirmed by the Senate for brevet appointments on March 3, 1869," provides "that from and after the passage of this act commissions by brevet shall only be conferred *in time of war and for distinguished conduct and public service in the presence of the enemy.* And all brevet commissions shall bear date from the particular action or service for which the officer was brevetted."

This second section of the act of March 1, 1869, has been incorporated into the Revised Statutes of the United States as sections 1209 and 1210, and are as follows, to wit:

SEC. 1209. The President, by and with the advice and consent of the Senate, *may in time of war* confer commissions by brevet upon commissioned officers of the Army for distinguished conduct and public service in presence of the enemy.

SEC. 1210. Brevet commissions shall bear date from the particular action or service for which the officer was brevetted.

The following sections of the Revised Statutes further show the policy of Congress in regard to brevet ranks:

SEC. 1211. Officers may be assigned to duty or command according to their brevet rank *by special assignment of the President;* and brevet rank shall not entitle an officer to precedence or command except when so assigned.

SEC. 1212. No officer shall be entitled on account of having been brevetted to wear while on duty any uniform other than that of his actual rank; and no officer shall be addressed in orders or official communications by any title other than that of his actual rank.

SEC. 1264. Brevets conferred upon commissioned officers shall not entitle them to any increase of pay.

Section 1211 was enacted March 3, 1869, and section 1212 was enacted July 15, 1870, and section 1264 was enacted March 3, 1869.

The question naturally arises, "What is the necessity for the passage of the present bill, and what will be its effect upon the officers of the Army?"

Your committee referred this bill to the Secretary of War for information upon the above questions, and other points, and, under date of December 30, 1879, received from him the following letter and accompanying documents, to wit:

WAR DEPARTMENT,
Washington City, December 30, 1879.

SIR: I have the honor to acknowledge the receipt of your letter of the 8th instant, inclosing Senate bill 219, relative to certain brevet appointments, and requesting certain information in regard to it, at the same time referring to a communication on the same subject addressed by you to the department on April 1st last.

In reply, I respectfully invite your attention to the inclosed report of the Adjutant-General, dated April 30, 1879, prepared in compliance with your previous request, and completed to date, which furnishes, it is believed, the information desired by you.

The bill is returned herewith.

Very respectfully, your obedient servant,

ALEX. RAMSEY,
Secretary of War.

Hon. F. M. COCKRELL,
Committee on Military Affairs, United States Senate.

ADJUTANT-GENERAL'S OFFICE,
April 30, 1879.

To the Hon. SECRETARY OF WAR:

SIR: I have the honor to return herewith the communication of the Hon. F. M. Cockrell, of the Senate Military Committee, dated the 1st instant, asking certain information, and your views upon a bill—Senate 219—relating to certain brevet appointments.

The first question is, "as to the probable number of officers who will be affected by the bill."

The reply to this is:

Officers now in the Regular Army (see list) ..... 1[illegible]
Officers of the Regular Army now dead or out of service ..... 5[illegible]
Officers formerly in the volunteer forces ..... 2[illegible]

The inclosed lists will show "the names, rank, &c., of the officers who were confirmed by the Senate for brevet appointments, on the 3d day of March, 1869." Upon this the question is asked, "how the act of March 1, 1869, affected the officers confirmed March 3, 1869." The act of March 1, 1869, section 2 [sections 1209 and 1210, Revised Statutes], provided that, "from and after the passage of this act, commissions by brevet shall only be conferred in time of war, and for distinguished conduct and public service in the presence of the enemy. And all brevet commissions shall bear date from the particular action or service for which the officer was brevetted." At the time this act was passed, a large number of nominations for brevet appointments were pending before the Senate, and some of the officers whose nominations were so pending had received brevet appointments during the preceding recess, by letter from the President, requiring confirmation by the Senate. A portion of these nominations only were confirmed March 3, 1869, by the Senate. The question as to whether commissions should issue to those whose nominations were thus confirmed—notwithstanding the act of prior date, March 1, 1869—was submitted to the Attorney-

who rendered an opinion April 24, 1869, [Opinions, vol. xiii, p. 31], that if
·rs were not nominated by reason of "distinguished conduct and public serv-
e presence of the enemy" they could not be commissioned. Hence, such of
·rs thus nominated and confirmed as were not excluded by the act of March
istrued by the Attorney-General—were duly commissioned; and those of the
ss (nominated for distinguished conduct in battle, &c.), whose nominations
ıding but not acted on March 3, 1869, were renominated the succeeding ses-
l were confirmed and commissioned (in April, 1869). Lists are inclosed show-
ıe nominations for brevets confirmed March 3, 1869, both for the regular Army
nteers, and showing the cases in which commissions issued under the opinion
:torney-General.

·xt question asked is, "whether the act of March 1, 1869, affected other offi-
ı those confirmed March 3, 1869." The answer to this is, that it did. The se-
for brevet nominations appear to have been made without consulting the
ecords of the officers. Some who had been already several times breveted
ıinated for additional brevets, without any apparent reason, based on addi-
·ritorious services. At the same time there were many distinguished officers—
he regular and volunteer service—who had at least equal claims with those
for nomination, and in some cases far superior claims, whose names were
from any nomination list.

·xt question is, "Why the act of March 1, 1869, should be so construed as to
ly those confirmed March 3, 1869, and not other officers." The answer to this
:t has not been so construed, and no nominations have been made since the
of the act that did not come within its provisions; and it may be added that
te has declined to act on all nominations for brevets which have been made
9, embracing nominations to confer brevet appointments on officers for service
lodoc and other Indian campaigns and battles, submitted to the Senate in
5.

eference to the views asked for as to the effect of this and similar legislation,
tant-General abstains from making any remark as the question is addressed
·cretary in person.

ıry respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

l copy:

SAM. BRECK,
Assistant Adjutant-General.

List of officers confirmed by the Senate on March 3, 1869, for brevet appointments in the volunteer force.

	Name.	Commissions on which confirmation of March 3, 1869, is based.		Brevet rank as confirmed Mar. 3, 1869.	To date from—	Present rank in United States Army.
		Lineal.	Brevet.			
1	Samuel M. Bowman	Colonel 84th Pennsylvania	Brigadier-general	Major-general	Mar. 13, 1865	
2	Thomas W. Hyde	Colonel 1st Maine	do	do	Apr. 2, 1865	
3	Edward B. Fowler	Colonel 84th New York	do	do	Mar. 13, 1865	
4	Thomas Wilhelm	Colonel 2d Pennsylvania Artillery	do	do	Mar. 13, 1865	Captain 8th Infantry.
5	Isaac R. Hawkins	Lieutenant-colonel 2d Tennessee Cavalry	Colonel	Brigadier-general	Mar. 13, 1865	
6	Henry A. Smalley	Colonel 5th Vermont		do	Mar. 13, 1865	
7	John Scott	Colonel 32d Iowa		do	Mar. 13, 1865	
8	John W. Beazell	Additional paymaster	Colonel	do	Aug. 23, 1865	
9	James L. Bates	Colonel 12th Massachusetts		do	Mar. 13, 1865	
10	John T. Dewees	Lieutenant-colonel 4th Indiana Cavalry	Colonel	do	Mar. 13, 1865	
11	Daniel C. Rodman	Lieutenant-colonel 7th Connecticut	do	do	Mar. 13, 1865	
12	Eugene L. Townsend	First lieutenant 71st New York	do	do	Mar. 13, 1865	
13	Richard Dillon	Captain 115th Pennsylvania	do	do	Mar. 13, 1865	
See No. 4	Thomas Wilhelm	Colonel 2d Pennsylvania Artillery		do	Mar. 13, 1865	Captain 8th Infantry.
14	James W. Britt	Lieutenant-colonel 57th New York	Colonel	do	Mar. 13, 1865	
15	Milton Cogswell	Colonel 42d New York		do	Mar. 13, 1865	Major retired.
16	Calvin Goddard	Major, assistant adjutant-general	Lieutenant-colonel	Colonel	Mar. 13, 1865	
17	Samuel W. Taylor	Captain, aide-de-camp	do	do	Mar. 13, 1865	
See No. 5	Isaac R. Hawkins	Lieutenant-colonel 2d Tennessee Cavalry		do	Mar. 13, 1865	
See No. 11	Daniel C. Rodman	Lieutenant-colonel 7th Connecticut		do	Mar. 13, 1865	
18	Thomas P. Johnston	Captain, assistant quartermaster	Lieutenant-colonel	do	Mar. 13, 1865	
19	Frank T. Bennett	Lieutenant-colonel 55th Pennsylvania		do	Mar. 13, 1865	
See No. 12	Eugene L. Townsend	First lieutenant 71st New York	Lieutenant-colonel	do	Mar. 13, 1865	
See No. 13	Richard Dillon	Captain 115th Pennsylvania	do	do	Mar. 13, 1865	
See No. 14	James W. Britt	Lieutenant-colonel 5th New York		do	Mar. 13, 1865	
See No. 8	John W. Beazell	Additional paymaster	Lieutenant-colonel	do	Aug. 23, 1865	
20	Hugo Hildebrandt	Major 39th New York	do	do	Mar. 13, 1865	
See No. 10	John T. Dewees	Lieutenant-colonel 4th Indiana Cavalry		do	Mar. 13, 1865	
21	Eugene L. Anderson	Captain 52d Ohio	Major	Lieutenant-colonel	Mar. 13, 1865	
See No. 16	Calvin Goddard	Major, assistant adjutant-general		do	Mar. 13, 1865	
22	Joseph B. Whiting	Surgeon 33d Wisconsin		do	Mar. 13, 1865	
See No. 12	Eugene L. Townsend	First lieutenant 71st New York	Major	do	Mar. 13, 1865	
See No. 13	Richard Dillon	Captain 115th Pennsylvania	do	do	Mar. 13, 1865	
See No. 20	Hugo Hildebrandt	Major 39th New York		do	Mar. 13, 1865	
23	Henry S. Dow	Captain 3d New Hampshire		Major	Mar. 13, 1865	
See No. 12	Eugene L. Townsend	First lieutenant 71st New York	Captain	do	Mar. 13, 1865	
24	Bertrand Rockwell	Captain 34th Iowa		do	Apr. 9, 1865	
25	Francis E. Goodwin	Captain 25th Massachusetts		do	Mar. 13, 1865	
See No. 21	Eugene L. Anderson	Captain 52d Ohio		do	Mar. 13, 1865	

NOTE.—This list is corrected to date. Adjutant-General's Office, December 24, 1870.

[Those to whose names this mark (*) is attached received commissions.]

		Name.	Commissions on which the confirmation of March 3, 1869, is based. Lineal.	Brevet.	Brevet rank as confirmed March 3, 1869.	To date from—	Present lineal rank.
	1	Thomas H. Ruger	Colonel 33d Infantry	Brigadier-general	Major-general	Mar. 2, 1867	Colonel 18th Infantry.
	2	Thomas H. Neill	Major 20th Infantry	do	do	Mar. 13, 1865	Colonel 8th Cavalry.
	3	Horace Brooks	Colonel 4th Artillery	do	do	Mar. 13, 1865	Colonel retired.
	4	Robert Avery	First lieutenant 44th Infantry	do	do	Mar. 2, 1867	Lieutenant-colonel retired.
	5	George A. H. Blake	Colonel 1st Cavalry	do	do	Mar. 13, 1865	Colonel retired.
	6	Franklin F. Flint	Lieutenant-colonel 7th Infantry	Colonel	Brigadier-general	Mar. 13, 1865	Colonel 4th Infantry.
	7	De Lancey Floyd-Jones	Lieutenant-colonel 19th Infantry	do	do	Mar. 13, 1865	Colonel retired.
	8	Henry A. Morrow	Lieutenant-colonel 36th Infantry	do	do	Mar. 2, 1867	Colonel 21st Infantry.
	9	James Biddle	Captain 24th Infantry	do	do	Mar. 13, 1865	Major 6th Cavalry.
	10	John McL. Taylor	Major, commissary subsistence	do	do	Mar. 13, 1865	Deceased.
	11	Beekman Du Barry	do	do	do	Mar. 13, 1865	Major, commissary subsistence.
	12	Robert Macfeely	do	do	do	Mar. 13, 1865	Brigadier-general, Commissary-General Subsistence.
	13	H. Clay Wood	Major, assistant adjutant-general	do	do	Mar. 13, 1865	Major, assistant adjutant-general.
	14	Augustus G. Tassin	Captain 12th Infantry	do	do	Mar. 2, 1867	First lieutenant 12th Infantry.
	15	Richard N. Batchelder	Major, quartermaster	do	do	Apr. 9, 1865	Major, quartermaster.
	16	Allan Rutherford	Captain 44th Infantry	do	do	Mar. 2, 1867	Out of service by resignation.
See No.	4	Robert Avery	First lieutenant 44th Infantry	do	do	Mar. 2, 1867	Lieutenant-colonel retired.
	17	John T. Sprague	Lieutenant-colonel 11th Infantry	do	do	Mar. 13, 1865	Deceased.
	18	Thomas Wilhelm	First lieutenant 8th Infantry	do	do	Mar. 2, 1867	Captain 8th Infantry.
	19	Milton Cogswell	Major 8th Infantry	do	do	Mar. 13, 1865	Major retired.
	20	Levi C. Bootes	Major 26th Infantry	do	do	Mar. 13, 1865	Lieutenant-colonel retired.
	21	George A. Forsyth*	Major 9th Cavalry	do	do	Sept. 17, 1868	Major 9th Cavalry.
	22	Daniel McClure	Colonel, assistant paymaster-general	do	do	Oct. 15, 1867	Colonel, assistant paymaster-general.
	23	Francis Fessenden	Captain 19th Infantry	Lieutenant-colonel	Colonel	Mar. 13, 1865	Brigadier-general retired.
	24	Moses B. Walker	Captain 12th Infantry	do	do	Mar. 13, 1865	Colonel retired.
See No.	8	Henry A. Morrow*	Lieutenant-colonel 36th Infantry		do	Mar. 2, 1867	Colonel 21st Infantry.
	25	William Sinclair	Captain 3d Artillery	Lieutenant-colonel	do	Mar. 13, 1865	Captain 3d Artillery.
See No.	6	Franklin F. Flint	Lieutenant-colonel 7th Infantry	do	do	Mar. 13, 1865	Colonel 4th Infantry.
	26	Lewis Thompson	Captain 2d Cavalry	do	do	Sept. 25, 1865	Deceased.
See No.	17	John T. Sprague	Lieutenant-colonel 11th Infantry		do	Mar. 13, 1865	Do.
See No.	18	Thomas Wilhelm	First lieutenant 8th Infantry	Lieutenant-colonel	do	Mar. 2, 1867	Captain 8th Infantry.
	27	John W. French	Second lieutenant 8th Infantry	do	do	Mar. 13, 1865	Captain 25th Infantry.
	28	Clarence E. Bennett	Captain 17th Infantry	do	do	Mar. 2, 1867	Captain 17th Infantry.
See No.	16	Allan Rutherford	Captain 44th Infantry	do	do	Mar. 2, 1867	Out of service by resignation.
See No.	4	Robert Avery	First lieutenant 44th Infantry	do	do	Mar. 2, 1867	Lieutenant-colonel retired.
	29	Henry R. Mizner	Captain 36th Infantry	do	do	Mar. 13, 1865	Major 8th Infantry.
	30	Delos A. Ward	Captain 39th Infantry	do	do	Mar. 2, 1867	Out of service by honorable muster out.
See No.	9	James Biddle	Captain 24th Infantry	do	do	Mar. 13, 1865	Major 6th Cavalry.

List of officers confirmed by the Senate on March 3, 1869, for brevet appointments in the United States Army—Continued.

		Name.	Commissions on which the confirmation of March 3, 1869, is based. Lineal.	Brevet.	Brevet rank as confirmed March 3, 1869.	To date from—	Present lineal rank.
	31	George A. Kensel	Captain 5th Artillery	Lieutenant-colonel	Colonel	Mar. 13, 1865	Captain 5th Artillery.
	32	Samuel McKeever	First lieutenant 16th Infantry	Major	Lieutenant-colonel	Mar. 2, 1867	Captain 2d Infantry.
	33	Daniel W. Burke	Captain 45th Infantry	do	do	Jan. 22, 1867	Captain 14th Infantry.
	34	James F. Randlett	Captain 39th Infantry	do	do	June 6, 1867	Catain 8th Cavalry.
	35	James Stewart	First lieutenant 4th Artillery	do	do	Mar. 13, 1865	Captain retired.
See No.	25	William Sinclair	Captain 3d Artillery	do	do	Mar. 13, 1865	Captain 3d Artillery.
	36	Carroll H. Potter	First lieutenant 18th Infantry	do	do	Mar. 2, 1867	Captain 18th Infantry.
See No.	28	Clarence E. Bennett	Captain 17th Infantry	do	do	Mar. 2, 1867	Captain 17th Infantry.
See No.	16	Allan Rutherford	Captain 44th Infantry	do	do	Mar. 2, 1867	Out of service by resignation.
See No.	4	Robert Avery	First lieutenant 44th Infantry	do	do	Mar. 2, 1867	Lieutenant-colonel retired.
	37	Joseph G. Crane	Captain, commissary subsistence	do	do	Apr. 25, 1865	Deceased.
	38	Curwen B. McLellan	Captain 6th Cavalry	do	do	Mar. 31, 1865	Captain 6th Cavalry.
	39	Nicholas Nolan	First lieutenant 6th Cavalry	do	do	Mar. 31, 1865	Captain 10th Cavalry.
	40	Charles H. Whittelsey	Captain 30th Infantry	do	do	Mar. 2, 1867	Deceased.
	41	Birney B. Keeler	First lieutenant 39th Infantry	do	do	Mar. 2, 1867	Captain 18th Infantry.
	42	John H. Donovan	Captain 44th Infantry	do	do	Mar. 2, 1867	Captain retired.
	43	John Mitchell	First lieutenant 4th Artillery	do	do	Mar. 29, 1865	Deceased.
	44	Daniel D. Wheeler	First lieutenant 1st Artillery	do	do	Mar. 2, 1867	Captain, assistant quartermaster.
	45	William Hawley	First lieutenant 20th Infantry	do	do	Mar. 2, 1867	Deceased.
	46	Arthur MacArthur, jr	Captain 36th Infantry	do	do	Mar. 2, 1867	Captain 13th Infantry.
	47	Thomas W. Sweeny	Major 16th Infantry		do	Mar. 13, 1865	Brigadier-general retired.
	48	Simeon Francis	Major, paymaster		do	Mar. 13, 1865	Deceased.
	49	Rodney Smith	do		do	Mar. 13, 1865	Major, paymaster.
	50	William A. Rucker	do		do	Mar. 2, 1867	Do.
	51	Robert C. Walker	do		do	Mar. 2, 1867	Major retired.
	52	George Pomeroy	do		do	Mar. 2, 1867	Deceased.
	53	Justus Steinberger	do		do	Mar. 2, 1867	Do.
	54	William R. Gibson	do		do	Mar. 2, 1867	Major, paymaster.
	55	Thomas H. Halsey	do		do	Mar. 2, 1867	Deceased.
	56	William B. Rochester	do		do	Mar. 2, 1867	Major, paymaster.
	57	Henry B. Reese	do		do	Mar. 2, 1867	Do.
	58	John L. Hodge	do		do	Mar. 2, 1867	Out of service; *cashiered*.
	59	Charles J. Sprague	do		do	Mar. 2, 1867	Major, paymaster.
	60	Nicholas Vedder	do		do	Mar. 2, 1867	Do.
	61	Edwin D. Judd	do		do	Mar. 2, 1867	Major retired.
						Mar. 2, 1867	Do.
						Mar. [illegible]	Major [illegible]

	77	George W. Candee	do		do	Mar. 2, 1867	Do.
	78	Edmund H. Brooke	do		do	Mar. 2, 1867	Do.
	79	Israel O. Dewey	do		do	Mar. 2, 1867	Do.
	80	Samuel A. Pearce, jr	do		do	Mar. 9, 1867	Out of service by resignation.
	81	James R. Mears	do		do	Mar. 13, 1867	Deceased.
	82	Thomas S. Allison	do		do	Apr. 1, 1867	Do.
	83	Frank M. Etting	do		do	Apr. 13, 1867	Out of service by honorable discharge.
	84	Robert Morrow	do		do	May 9, 1867	Deceased.
	85	Isaac S. Stewart	do		do	Oct. 18, 1867	Out of service by resignation under charges.
	86	Dwight Bannister	do		do	Mar. 3, 1868	Out of service by honorable discharge.
	87	Sumner H. Lincoln	First lieutenant 26th Infantry	Major	do	Mar. 2, 1867	Captain 10th Infantry.
	88	Andrew P. Caraher	First lieutenant 43d Infantry	do	do	Mar. 2, 1867	Captain 8th Cavalry.
	89	William J. L. Nicodemus	Captain 12th Infantry	do	do	Mar. 13, 1865	Out of service by honorable discharge.
	90	Charles McClure	Captain, commissary subsistence*	do	do	Aug. 17, 1866	Captain, commissary subsistence.
	91	John M. Duffy	Captain 22d Infantry	do	do	Mar. 13, 1865	Out of service by honorable discharge.
See No.	26	Lewis Thompson	Captain 2d Cavalry	do	do	Sept. 25, 1865	Deceased.
	92	Robert H. Offley	Captain 1st Infantry	do	do	Oct. 31, 1866	Major 19th Infantry.
See No.	30	Delos A. Ward	Captain 39th Infantry	do	do	Mar. 2, 1867	Out of service by honorable discharge.
See No.	18	Thomas Wilhelm	First lieutenant 8th Infantry	do	do	Mar. 2, 1867	Captain 8th Infantry.
See No.	27	John W. French	Second lieutenant 8th Infantry	do	do	Mar. 13, 1865	Captain 25th Infantry.
	93	Paul Harwood	Second lieutenant 27th Infantry	Captain	Major	Mar. 7, 1867	First lieutenant 20th Infantry.
	94	Arthur Morris	First lieutenant 4th Artillery	do	do	Mar. 13, 1865	Captain 4th Artillery.
	95	George W. Yates	Second lieutenant 2d Cavalry	do	do	Mar. 2, 1867	Deceased; killed in action.
See No.	32	Samuel McKeever	First lieutenant 16th Infantry	do	do	Mar. 2, 1867	Captain 2d Infantry.
	96	Azor H. Nickerson	First lieutenant 23d Infantry	do	do	Mar. 2, 1867	Major, assistant adjutant-general.
See No.	34	James F. Randlett	Captain 39th Infantry		do	June 6, 1867	Captain 8th Cavalry.
	97	Henry H. Abell	First lieutenant 7th Cavalry	Captain	do	Mar. 2, 1867	Out of service by honorable discharge.
	98	Francis E. Lacey	First lieutenant 2d Infantry	do	do	Mar. 13, 1865	Captain 10th Infantry.
See No.	35	James Stewart	First lieutenant 4th Artillery	do	do	Aug. 18, 1864	Captain retired.
	99	Louis M. Hamilton*	Captain 7th Cavalry		do	Nov. 27, 1868	Deceased; killed in action.
See No.	36	Carroll H. Potter	First lieutenant 18th Infantry	Captain	do	Mar. 2, 1867	Captain 18th Infantry.
	100	James K. Warden	First lieutenant 45th Infantry	do	do	Mar. 2, 1867	Deceased.
	101	Thomas J. Spencer	Second lieutenant 10th Cavalry	do	do	Mar. 2, 1867	Captain 10th Cavalry.
	102	James M. Williams*	Captain 8th Cavalry		do	July 9, 1867	Out of service by resignation.
	103	Francis W. Seeley	First lieutenant 4th Artillery	Captain	do	July 1, 1863	Do.
See No.	30	Delos A. Ward	Captain 39th Infantry		do	Mar. 2, 1867	Out of service by honorable discharge.
See No.	27	John W. French	Second lieutenant 8th Infantry	Captain	do	Mar. 13, 1865	Captain 25th Infantry.
	104	Robert A. Torrey	First lieutenant 13th Infantry	do	do	Mar. 13, 1865	Captain 13th Infantry.
	105	George R. Vernon	Captain 14th Infantry		do	Mar. 13, 1865	Out of service by honorable discharge.
See No	37	Joseph G. Crane*	Captain, commissary subsistence		do	Apr. 25, 1865	Deceased.
	106	Henry F. Leggett	Second lieutenant 38th Infantry	Captain	do	July 17, 1867	First lieutenant 24th Infantry.
See No.	39	Nicholas Nolan	First lieutenant 6th Cavalry	do	do	Mar. 31, 1865	Captain 10th Cavalry.

List of officers confirmed by the Senate on March 3, 1869, for brevet appointments in the United States Army—Continued.

	Name.	Commissions on which the confirmation of March 3, 1869, is based. Lineal.	Brevet.	Brevet rank as confirmed March 3, 1869.	To date from—	Present lineal rank.
107	George Macomber	First lieutenant 32d Infantry	Captain	Major	Mar. 2, 1867	Deceased.
See No. 43	John Mitchell	First lieutenant 4th Artillery	do	do	Mar. 29, 1865	Do.
108	Charles M. Callahan	First lieutenant 3d Artillery	do	do	Mar. 2, 1867	Captain 4th Cavalry.
See No. 44	Daniel D. Wheeler	First lieutenant 1st Artillery	do	do	Mar. 2, 1867	Captain, assistant quartermaster.
See No. 45	William Hawley	First lieutenant 20th Infantry	do	do	Mar. 2, 1867	Deceased.
109	William H. Bisbee	Captain 27th Infantry		do	Mar. 13, 1865	Captain 4th Infantry.
110	William H. Hugo	Second lieutenant 25th Infantry	Captain	do	Mar. 2, 1867	First lieutenant 9th Cavalry.
See No. 46	Arthur MacArthur, jr	Captain 36th Infantry		do	Mar. 2, 1867	Captain 13th Infantry.
111	Fredrik Rosenerantz	Second lieutenant 34th Infantry	Captain	do	Mar. 2, 1867	Deceased.
See No. 28	Clarence E. Bennett	Captain 17th Infantry		do	Mar. 2, 1867	Captain 17th Infantry.
112	Frank W. Hess	First lieutenant 29th Infantry	Captain	do	Mar. 2, 1867	First lieutenant 3d Artillery.
See No. 87	Sumner H. Lincoln	First lieutenant 26th Infantry	do	do	Mar. 2, 1867	Captain 10th Infantry.
113	Charles H. Hoyt	Captain, assistant quartermaster		do	Mar. 22, 1867	Captain, assistant quartermaster.
114	Richard P. Strong	First lieutenant 7th Infantry	Captain	do	Mar. 2, 1867	First lieutenant 4th Artillery.
115	George W. Graham	First lieutenant 10th Cavalry	do	do	Mar. 2, 1867	Out of service; *cashiered*.
See No. 91	John M. Duffy	Captain 22d Infantry		do	Mar. 13, 1865	Out of service by honorable discharge.
116	Owen Hale	First lieutenant 7th Cavalry	Captain	do	Mar. 2, 1867	Deceased; killed in action.
117	Paul R. Hambrick	Second lieutenant 45th Infantry	do	do	Mar. 2, 1867	Out of service by resignation.
118	Adna R. Chaffee*	Captain 6th Cavalry		do	Mar. 7, 1868	Captain 6th Cavalry.
119	William H. Clapp	First lieutenant 11th Infantry	Captain	do	Mar. 2, 1867	Captain 16th Infantry.
120	Charles C. Aleshire	First lieutenant 3d Artillery	do	do	Mar. 2, 1867	Out of service by honorable discharge.
121	Eliphalet N. Chester	Second lieutenant 4th Artillery	First lieutenant	Captain	June 17, 1867	Do.
See No. 93	Paul Harwood	Second lieutenant 27th Infantry	do	do	Mar. 7, 1867	First lieutenant 20th Infantry.
122	William C. Rawolle	Second lieutenant 2d Cavalry	do	do	June 6, 1868	First lieutenant 2d Cavalry.
123	Alvan S. Galbreath*	First lieutenant 18th Infantry		do	Mar. 2, 1867	Out of service by resignation.
124	Rufus Somerby*	Second lieutenant 8th Cavalry	First lieutenant	do	Oct. 7, 1868	Do.
125	William M. Baudy	Second lieutenant 28th Infantry	do	do	Aug. 29, 1867	Do.
See No. 95	George W. Yates	Second lieutenant 2d Cavalry	do	do	Mar. 2, 1867	Deceased; killed in action.
126	William L. English	Second lieutenant 7th Infantry	do	do	June 18, 1867	Deceased of wounds.
127	John S. Hammer	First lieutenant 19th Infantry		do	Mar. 2, 1867	Out of service by honorable discharge.
128	Thomas D. Maurice	First lieutenant 2d Artillery		do	Mar. 2, 1867	First lieutenant 2d Artillery.
See No. 96	Azor H. Nickerson	First lieutenant 23d Infantry		do	Mar. 2, 1867	Major, assistant adjutant general.
129	Asa B. Gardner	Second lieutenant 9th Infantry	First lieutenant	do	Mar. 2, 1867	Major, judge-advocate.
130	John W. Dillenback	First lieutenant 1st Artillery		do	Mar. 2, 1867	First lieutenant 1st Artillery.
131	Owen J. Sweet	Second lieutenant 40th Infantry	First lieutenant	do	May 27, 1867	First lieutenant 25th Infantry.
See No. 97	Henry H. Abell	First lieutenant 7th Cavalry		do	Mar. 2, 1867	Out of service by honorable discharge.
						Captain retired.

140	J. Sumner Rogers	Second lieutenant 1st Infantry	do	do	Oct. 1, 1867	Out of service by resignation.
141	George W. Budd	Second lieutenant 9th Cavalry	do	do	Aug. 17, 1867	First lieutenant retired.
142	John W. Lewis	Second lieutenant 23d Infantry	do	do	Mar. 2, 1867	Out of service by honorable discharge.
See No. 108	Charles M. Callahan	First lieutenant 3d Artillery		do	Mar. 2, 1867	Captain 4th Cavalry.
143	John Bannister	Second lieutenant 43d Infantry	First lieutenant	do	Mar. 2, 1867	First lieutenant retired.
144	Edward Donovan	Second lieutenant 41st Infantry	do	do	Mar. 2, 1867	Out of service by resignation under charges.
145	William G. Fitch	First lieutenant 2d Infantry		do	Mar. 13, 1865	First lieutenant retired.
See No. 45	William Hawley	First lieutenant 20th Infantry		do	Mar. 2, 1867	Deceased.
146	Warren R. Dunton	First lieutenant 2d Infantry		do	Mar. 2, 1867	First lieutenant retired.
See No. 110	William H. Hugo	Second lieutenant 25th Infantry	First lieutenant	do	Mar. 2, 1867	First lieutenant 9th Cavalry.
147	William F. Rice	Second lieutenant 23d Infantry	do	do	Mar. 2, 1867	First lieutenant 23d Infantry.
See No. 111	Fredrik Rosencrantz	Second lieutenant 34th Infantry	do	do	Mar. 2, 1867	Deceased.
148	James B. Burbank	Second lieutenant 3d Artillery	do	do	Mar. 2, 1867	First lieutenant 3d Artillery.
149	George S. Luttrell Ward	Second lieutenant 31st Infantry	do	do	Mar. 2, 1867	First lieutenant 22d Infantry.
150	Frank C. Grugan	Second lieutenant 2d Cavalry	do	do	Mar. 2, 1867	First lieutenant 2d Artillery.
151	Frank Thorp	Second lieutenant 5th Artillery	do	do	Mar. 2, 1867	First lieutenant 5th Artillery.
152	Henry P. Ritzius	Second lieutenant 39th Infantry	do	do	Oct. 23, 1867	First lieutenant 25th Infantry.
See No. 87	Sumner H. Lincoln	First lieutenant 26th Infantry		do	Mar. 2, 1867	Captain 10th Infantry.
See No. 115	George W. Graham	First lieutenant 10th Cavalry		do	Mar. 2, 1867	Out of service; *cashiered*.
See No. 116	Owen Hale	First lieutenant 7th Cavalry		do	Mar. 2, 1867	Deceased; killed in action.
See No. 117	Paul R. Hambrick	Second lieutenant 45th Infantry	First lieutenant	do	Mar. 2, 1867	Out of service by resignation.
153	William P. Bainbridge	First lieutenant 3d Cavalry		do	Mar. 2, 1867	Out of service by honorable discharge.
154	John B. Nixon	First lieutenant 38th Infantry		do	June 12, 1867	Captain 24th Infantry.
155	Patrick Cusack*	First lieutenant 9th Cavalry		do	Sept. 12, 1868	First lieutenant 9th Cavalry.
See No. 119	William H. Clapp	First lieutenant 11th Infantry		do	Mar. 2, 1867	Captain 16th Infantry.
156	Joseph M. Kennedy	Second lieutenant 25th Infantry	First lieutenant	do	Mar. 2, 1867	Out of service by resignation.
157	Bernard H. Herkness	Second lieutenant 35th Infantry	do	do	Mar. 2, 1867	Deceased.
158	Simon C. Vedder	Second lieutenant 28th Infantry	do	do	Mar. 7, 1867	First lieutenant 19th Infantry.
159	Henry W. Torbett	Second lieutenant 29th Infantry	do	do	Mar. 7, 1867	Deceased.
See No. 103	Francis W. Seeley	First lieutenant 4th Artillery		do	June 25, 1862	Out of service by resignation.
160	David H. McComas	Second lieutenant 45th Infantry	First lieutenant	do	Mar. 7, 1867	Out of service by resignation under charges.
161	William H. Hick	Second lieutenant 4th Cavalry	do	do	Mar. 7, 1867	Out of service by honorable discharge.
See No. 100	James K. Warden	First lieutenant 45th Infantry		do	Mar. 2, 1867	Deceased.
See No. 133	Thomas E. Merritt	Second lieutenant 29th Infantry		First lieutenant	Mar. 2, 1867	Captain retired.
See No. 134	Louis H. Rucker	Second lieutenant 9th Cavalry		do	Mar. 2, 1867	Captain 9th Cavalry.
See No. 135	David A. Griffith	Second lieutenant 30th Infantry		do	Mar. 2, 1867	First lieutenant 3d Infantry.
See No. 137	George K. Spencer	Second lieutenant 19th Infantry		do	Aug. 17, 1867	First lieutenant 19th Infantry.
See No. 139	Frank P. Gross	Second lieutenant 9th Cavalry		do	Aug. 9, 1867	First lieutenant retired.
See No. 140	J. Sumner Rogers	Second lieutenant 1st Infantry		do	Oct. 1, 1867	Out of service by resignation.
See No. 141	George W. Budd	Second lieutenant 9th Cavalry		do	Aug. 17, 1867	First lieutenant retired.
See No. 142	John W. Lewis	Second lieutenant 23d Infantry		do	Mar. 2, 1867	Out of service by honorable discharge.

List of officers confirmed by the Senate on March 3, 1869, for brevet appointments in the United States Army—Continued.

	Name.	Commissions on which the confirmation of March 3, 1869, is based.		Brevet rank as confirmed March 3, 1869.	To date from—	Present lineal rank.
		Lineal.	Brevet.			
See No. 144	Edward Donovan	Second lieutenant 41st Infantry		First lieutenant	Mar. 2, 1867	Out of service by resignation under charges.
See No. 110	William H. Hugo	Second lieutenant 25th Infantry		do	Mar. 2, 1867	First lieutenant 9th Cavalry.
See No. 147	William F. Rice	Second lieutenant 23d Infantry		do	Mar. 2, 1867	First lieutenant 23d Infantry.
See No. 111	Fredrik Rosencrantz	Second lieutenant 34th Infantry		do	Mar. 2, 1867	Deceased.
See No. 149	George S. Luttrell Ward	Second lieutenant 31st Infantry		do	Mar. 2, 1867	First lieutenant 22d Infantry.
See No. 150	Frank C. Grugan	Second lieutenant 2d Cavalry		do	Mar. 2, 1867	First lieutenant 2d Artillery.
162	John Anderson	Second lieutenant 25th Infantry		do	Aug. 10, 1867	First lieutenant 18th Infantry.
See No. 151	Frank Thorp	Second lieutenant 5th Artillery		do	Mar. 2, 1867	First lieutenant 5th Artillery.
See No. 152	Henry P. Ritzius	Second lieutenant 39th Infantry		do	Oct. 23, 1867	First lieutenant 25th Infantry.
See No. 156	Joseph M. Kennedy	Second lieutenant 25th Infantry		do	Mar. 2, 1867	Out of service by resignation.
See No. 157	Bernard H. Herkness	Second lieutenant 35th Infantry		do	Mar. 2, 1867	Deceased.
See No. 159	Henry W. Torbett	Second lieutenant 29th Infantry		do	Mar. 7, 1867	Do.
See No. 160	David H. McComas	Second lieutenant 45th Infantry		do	Mar. 7, 1867	Out of service by resignation under charges.
See No. 161	William H. Hick	Second lieutenant 4th Cavalry		do	Mar. 7, 1867	Out of service by honorable discharge.
See No. 121	Eliphalet N. Chester	Second lieutenant 4th Artillery		do	June 17, 1867	Do.
See No. 93	Paul Harwood	Second lieutenant 27th Infantry		do	Mar. 7, 1867	First lieutenant 20th Infantry.
See No. 122	William C. Rawolle	Second lieutenant 2d Cavalry		do	June 6, 1868	First lieutenant 2d Cavalry.
See No. 124	Rufus Somerby*	Second lieutenant 8th Cavalry		do	Aug. 30, 1868	Out of service by resignation.
See No. 125	William M. Bandy	Second lieutenant 28th Infantry		do	Aug. 29, 1867	Do.
See No. 95	George W. Yates	Second lieutenant 2d Cavalry		do	Mar. 2, 1867	Deceased; killed in action.
See No. 126	William L. English	Second lieutenant 7th Infantry		do	June 18, 1867	Deceased, of wounds.
163	Samuel K. Thompson	Second lieutenant 39th Infantry		do	Oct. 16, 1867	Out of service; dismissed.
164	Jonathan B. Hanson	do		do	Mar. 7, 1867	Do.
See No. 129	Asa B. Gardner	Second lieutenant 9th Infantry		do	Mar. 2, 1867	Major, judge advocate.
See No. 131	Owen J. Sweet	Second lieutenant 40th Infantry		do	May 27, 1867	First lieutenant 25th Infantry.
165	Henry H. Kuhn	Second lieutenant 42d Infantry		do	Mar. 2, 1867	First lieutenant retired.
166	Hayden De Lany*	Second lieutenant 9th Infantry		do	May 1, 1868	First lieutenant 9th Infantry.
167	Henry J. Reilly	Second lieutenant 5th Artillery		do	Oct. 1, 1867	First lieutenant 5th Artillery.

RÉSUMÉ.

In service (of which number 5 have been commissioned)	108
Died (of which number 2 have been commissioned)	26
Resigned, discharged, dismissed, and cashiered (of which number 3 have been commissioned)	33
Total	167

the laws hereinbefore quoted, and the facts stated in the fore-
ommunications from the War Department, it clearly appears that
cy of the government in regard to brevet appointments and com-
s, and the power of the President to confer them, and their ef-
ıen conferred, were wholly changed by the legislation of 1869 and
orporated into the Revised Statutes, and that this policy adopted
and 1870 has been steadily adhered to ever since, and that the
has repeatedly refused to confirm nominations for brevet ap-
nts not made in strict conformity to the laws quoted. Your
ee see no reason or sufficient grounds to justify them in recom-
; a departure at this time from the present settled policy. Your
ee, therefore, report back the said bill adversely, and recommend
e indefinitely postponed.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT. No. 131.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

r. TELLER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 47.]

he Committee on Claims, to whom was referred the bill (S. 47) for the relief of James Hunt, of Pendleton, Oreg., have considered the same, and present the following report:

The claimant seeks compensation for goods destroyed by the Indians at Cayuse Station, in the State of Oregon. It does not appear when the property was destroyed except from the affidavit of claimant, who states it was during the "late Indian difficulties." There is no proof of loss of property except by the affidavit of claimant. The government is not under obligation to make good losses of this character. In cases where government contractors, sutlers, and others are compelled to incur unusual risks, Congress has frequently made compensation for losses sustained from Indian hostilities. But claimant does not show reasons why he should be paid. We respectfully recommend the indefinite postponement of the bill.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 132.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

Mr. RANDOLPH, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 773.]

The Committee on Military Affairs, to whom was referred the bill (S. 773) making appropriations for a military wagon-road from Niobrara, in Nebraska, to Fort Robinson in said State, beg leave to report as follows:

The bill provides for the appropriation, out of any moneys in the Treasury, the sum of forty thousand dollars, to be used by the Secretary of War, in the construction of a military wagon-road from Niobrara, in Knok County, Nebraska, via the new military post to be located near the mouth of the Minecadusa, to Fort Robinson, in said State.

For the purpose of obtaining information relating thereto, the bill was sent to the Secretary of War, who returned it with the following indorsement thereon:

HEADQUARTERS OF THE ARMY,
Washington, December 31, 1879.

Approved and recommended.

W. T. SHERMAN,
General.

In his letter of January 6, 1880, returning the bill, the Secretary of War directs attention to the indorsement of the General of the Army, and says, "I recommend that the bill become a law."

The committee having no further evidence and deeming what is furnished insufficient to warrant the expenditure of so large a sum of money, ask to be discharged from the further consideration of the subject.

O

'H CONGRESS, } SENATE. { REPORT
2d Session. } { No. 133.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

. RANDOLPH, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 754.]

e Committee on Military Affairs, to whom was submitted the bill (S. 754) "to authorize the relocation and improvement of the military wagon-road from Sidney, Nebr., via Forts Robinson and Sheridan, to the Sioux Indian Reservation," beg leave to report as follows:

The bill provides that the Secretary of War be authorized to require) be resurveyed and relocated the road at present used for the transortation of military and Indian stores from Sydney, Nebr., to 'orts Robinson and Sheridan, on the Rosebud Agency of the Sioux eservation. It further provides that the Secretary of War, in his disretion, cause the road, when properly located, to be improved by gradng, bridging, and otherwise, with the view of cheapening the cost of government transportation to the points indicated. It also provides that he sum of twenty thousand dollars be appropriated to carry out the inent and purpose of the bill.

With the view of considerate action, a copy of the bill was sent the lecretary of War, who returned it with the following indorsement thereon:

HEADQUARTERS OF THE ARMY,
Washington, December 31, 1879.

Approved and recommended.

W. T. SHERMAN, *General.*

The Secretary of War, in a letter dated January 6, 1880, returning he bill, says: "Inviting your attention to the approval of the General f the Army, thereon indorsed, I recommend the enactment of the bill."

Your committee, deeming the evidence submitted insufficient to justify ie expenditure of so large a sum of money, ask to be discharged from ie further consideration of the subject.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 134.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

r. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 695.]

he Committee on Claims, to whom was referred the bill (S. 695) for the relief of Michael Granery, Nicholas Wax, and Moliere Lange, with the accompanying papers, have duly considered the same, and submit the following report:

A similar bill was introduced in the Senate in the Forty-fourth Congress and referred to the Committee on Claims, and favorably reported by said committee June 7, 1876, and was passed by the Senate January 15, 1877, and in the House of Representatives was favorably reported, but no final action had. In the Forty-fifth Congress a similar bill was introduced in the Senate and referred to the Committee on Claims, and was again favorably reported to the Senate March 20, 1878, and was passed by the Senate April 24, 1878, and was sent to the House of Representatives and there referred to the Committee on the Judiciary, and favorably reported by said committee, but no final action had. This bill directs the Secretary of the Treasury to pay to each of the claimants $500 in refundment of so much money exacted from them as obligors on a bond taken by Col. D. A. Pardee, provost-marshal, Baton Rouge, La., in 1863, for the appearance of one B. F. Rhodes, the payment of which was improperly and illegally enforced.

Your committee have carefully examined all the evidence submitted by the claimants and the information heretofore furnished by the War Department in 1876, on the application of the Hon. A. T. Caperton, then acting as a sub-committee of the Committee on Claims, and find the facts substantially set forth in the following report made from the Committee on Claims March 20, 1878, by the Hon. Henry M. Teller, to wit:

The facts connected with this claim, as ascertained from the proofs, documentary and otherwise, as well as the sworn petition of the claimants, are, that while the district of Baton Rouge, La., was under military law, a certain B. F. Rhodes was arrested by the order of Col. D. H. Pardee, then provost-marshal of that district, and imprisoned upon a criminal charge; and that prisoner, being sick, made application to claimants to enter into bond for his appearance when required in the sum of $1,500, the claimants to be bound in the sum of $500 each. The bond was executed and the prisoner discharged; that, being sick at the time of his discharge, the prisoner went to the residence of his sister, where very soon he died of what was supposed to have been small-pox; that upon the application of claimants to be discharged from their bond they were told by the provost-marshal that they were still bound, notwithstanding the death of their principal, and that unless they paid the amount of the bond they would be imprisoned; that claimants declined to pay, and were actually imprisoned, and thereby compelled to pay the required sum in order to be released from prison. Receipts were given to the claimants for the sum of $500 each. The committee are satisfied that the bond taken was conditioned for the appearance of the prisoner, and that his death occurred before there was a forfeiture of the bond.

It appears by an extract furnished by the War Department that Pardee reporte fund as in his hands, and was charged with it in the settlement of account wit Provost-Marshal-general.

As the money has gone into the Treasury, and the claimants were not in defau committee recommend that it be returned to the claimants, and report the accom ing bill and recommend its passage.

Your committee recommend the following amendment to said bil the end of the last line, insert the following: "in full payment an isfaction therefor," and with said amendment recommend the p of the bill.

C

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 135.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 194.]

Committee on Military Affairs, to whom was referred the bill (S. 194) r the disposal of Fort Harker military reservation, have considered e same, and make the following report:

hat this subject was under consideration in the last Congress, and s committee reported to the Senate a substitute for the then pending asure, which was in the precise language of the bill now being con- ered. In reporting their favorable action on the pending bill, the nmittee do not deem it necessary to add anything to the views here- ore expressed, and they therefore recommend the passage of the bill, d invite the attention of the Senate to the views embodied in the fol- ing report, above referred to:

he Fort Harker Reservation is situated on the line of the Kansas Pacific Railroad, the 98th degree of longitude, in the State of Kansas, and comprises about ten thou- d acres. It was abandoned for military purposes several years since, and the War partment has repeatedly recommended that it be turned over to the Interior De- rtment for disposal as other public lands. One-half of the reservation is claimed by Kansas Pacific Railroad Company, under its original land grant. The committee not assume, however, to pass on that claim.

he reservation is situated about four miles from Ellsworth, the county seat of Ells- rth County, in a section of country settled within the last eight years; it is sur- nded by other lands owned by the government which are subject to entry under homestead and pre-emption laws of the United States; and the evidence before r committee shows that the lands comprised in the reservation under consideration ve no value except for agricultural purposes, and none for such purposes even ich is exceptional. They are, also, it is believed, mainly occupied by settlers who ve gone onto and improved them since the abandonment by the military authorities. t has become the settled policy of the government to dispose of agricultural lands actual settlers only. This policy has been applied to military reservations on the ntier, where they have been abandoned as not longer needed for military purposes, shown by the recent action of Congress concerning the reservations of Fort Kear- , Fort Laramie, Fort Fetterman, old Fort Wayne, and others. The Fort Dalles itary Reservation in Oregon constitutes an apparent exception, but that reservation prised only about four hundred acres, and was surrounded on two sides by a large thriving town, which gave to the lands an exceptional value, and for other than icultural purposes.

n this case the committee, while applying the policy of the government to the Fort ker military reservation, by providing that it shall be sold to actual settlers only,

and for the protection of those who have already settled upon it, on the other hand fully protect the interests of the government by providing for its appraisement under the direction of the Secretary of the Interior, and that it shall be sold at the appraised price, so that whatever increased value it may have by reason of its segregation from the public domain during and since its military occupation may be fully realized by the government.

Certain amendments, intended to make the text more specific, are recommended; and with their addition, the bill is recommended for passage.

C

6TH CONGRESS, 2d Session. | SENATE. | REPORT No. 136.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 193.]

e Committee on Military Affairs, to whom was referred the bill (S. 193) o provide for the disposition of the Fort Larned military reservation, ıave had the same under consideration, and submit the following report:

That said reservation has been abandoned by the military authorities, d the government has no further occasion for its use. It is located the Arkansas River, about three hundred miles west of the east line the State of Kansas, and contains about fourteen thousand acres. is in a newly-settled section of the country, and the lands embraced it are exclusively agricultural, as are those in its vicinity.

The bill provides for the restoration of the reservation to the public ɔmain and the disposal of the lands to actual settlers. This is in acɔrdance with the now settled policy of the government, that agricularal lands are to be subject to disposal only for actual settlement, and, s shown in the report on the Fort Harker bill, this policy has been lmost uniformly applied to frontier military reservations abandoned ithin recent years. While thus providing for the sale to actual setlers only, the bill also provides for an appraisement under the direction f the Secretary of the Interior, so that the increased value that it may ave acquired by reason of having been withheld from settlement will esult to the benefit of the government. The amount to be sold to any ne person is limited to 80 acres, except that the Commissioner of the leneral Land Office is authorized to cause the section on which the imrovements are situated to be appraised in a body and sold, with the nprovements, at public or private sale, as the interests of the governıent may seem to require, but in no event at less than the appraised rice.

The bill seems to be well calculated to bring to the government the ll value of the lands, and at the same time to subject them to speedy ttlement and cultivation. The committee therefore recommend its assage.

C

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 137.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 2.]

The Committee on Military Affairs, to whom was referred the bill (S. 2) for the relief of Mark Walker, have had the same under consideration, and make the following report:

That the records of the War Department show that Walker entered the military service as a corporal of Company G, Fifteenth Indiana Volunteers, June 14, 1861, was subsequently appointed sergeant, promoted to second lieutenant, January 1, 1863, and to first lieutenant, March 1, 1863. He was so severely wounded at the battle of Stone River, December 31, 1862, as to compel his absence from his regiment until March 1, 1863. He rendered faithful service until June 25, 1864, when he was honorably mustered out. He re-entered the service as a captain in the Two hundred and fourteenth Pennsylvania Volunteers, March 30, 1865, and served in the Shenandoah Valley and in this city until January 22, 1866, when mustered out. He was brevetted major of volunteers March 13, 1865, "for gallant and meritorious services during the war." He was subsequently appointed second and first lieutenant of the Nineteenth Infantry, Regular Army, his appointment to both grades dating February 23, 1866, and was brevetted captain March 2, 1867. He continued in the service until April 29, 1878, when he was dismissed, pursuant to the findings of a general court-martial, "for drunkenness on duty, in violation of the 38th Article of War," to take effect May 13, 1878.

The specification of the charge on which Lieutenant Walker was tried is—

In that First Lieutenant Mark Walker, Nineteenth Infantry, being on duty in command of his company at undress parade at retreat, at Fort Lyon, Colorado, on or about December 24, 1877, was found drunk.

To the charge and specification Lieutenant Walker pleaded guilty.

The occurrence on which the charge was based happened on Christmas eve, an occasion on which the tendency to conviviality in social intercourse, and notably in Army intercourse on the frontier, though not excusable, is certainly far too general. The "duty" upon which the accused was found in an intoxicated condition, while falling within the prohibition of the Article of War, was evidently not of that character which involves the highest degree of responsibility on the part of the officer. The record shows that Lieutenant Walker, during his service of sixteen years, had never before been accused of any misconduct.

It is abundantly shown, as well by the records of the War Depart-

ment, setting forth frequent absences on sick leave, as by the concurrent testimony of brother officers and the certificates of Army surgeons, that, at the time of the commission of the offense, Lieutenant Walker was, and for several years had been, suffering from a complication of diseases, which for long periods had rendered him wholly unfit for active service.

While the charge upon which he was dismissed was pending, he applied to be ordered before a retiring board with a view to retirement for disability, but the application was suspended to await the result of the trial. In support of this application the post surgeon at Fort Lyon certified that he had served at the same post with Walker from December, 1874, to May, 1875, and again, at Fort Lyon, from July, 1877, to the date of the certificate, December 26, 1877; that Walker had frequently been under medical treatment; that he was suffering from valvular disease of the heart, and subject to *frequent* attacks of acute rheumatism, and that he was wholly unfit for active service. The surgeon further certified that, in his opinion, Walker would never be fit for such service, and that the diseases mentioned were contracted in the service. Prior to the commission of said offense, viz, on November 8, 1877, the colonel of his regiment had recommended that he "be ordered before a retiring board for examination, with a view to his being retired from the service."

In submitting the case to the Secretary of War for the action of the President, the Judge-Advocate-General of the Army commented upon the record as follows:

> In view of the conviviality so frequent at the season when the accused committed the offense for which he has been brought to trial, and of the informal character of the duty upon which he was engaged, his misconduct, it is submitted, was much more venial than under ordinary circumstances it would be right or expedient to hold it. The case appears to be one in which considerable clemency may well be exercised, the more clearly so when the accused's ill health, apparently the result of wounds and severe service, and his honorable record, are taken into consideration.

General Pennypacker, the president of the court-martial, writes to the Adjutant-General of the Army, under date of March 9, 1879, recommending that Walker be restored and placed on the retired list. He says:

> I considered, at the time of his trial, that his was a very hard case; that he was undoubtedly afflicted very much from exposure incident to the service. Yet, as he plead guilty, there was nothing for the court to do but the action taken by them. The circumstances surrounding the case, the time which the admitted offense was committed, the physical condition of the accused, all tend to induce me to make this recommendation as an act of justice to Mr. Walker.

The passage of a bill identical with the one now under consideration was recommended by the Secretary of War during the last Congress, and it was reported favorably by this committee, with certain amendments, which we have again adopted, and with such amendments recommend its passage.

O

, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 556.]

ttee on Military Affairs, to whom was referred the bill (S. 556) ze the President to appoint Sergeant John Dolan, of the Fifth a second lieutenant, and place him on the retired list, have l the same, and report as follows:

n Dolan enlisted in the Army May 27, 1850, and has been in inuous service since, or for a period of nearly thirty years, and ably over twenty years has served in the rank of first sergeant. oubling the Senate with the minute details of his military ich are clearly and admirably set forth in the papers accom- ill, the committee are thoroughly convinced that the record t the facts and circumstances which have distinguished his are of such a nature, as to fully entitle him to the relief brief and imperfect summary follows:

enlistment Dolan was assigned to Company G, First Dra- was almost continually in active service against the Indians irst term of enlistment, distinguishing himself by his bravery, y his conduct and deportment.

isted in the same company March 27, 1855, and participated s expeditions against the Indians, and was engaged in many skirmishes with the Apaches in Arizona.

piration of his second term Sergeant Dolan again enlisted uis, Mo., March 28, 1860, and was assigned to Company B, Fourth) Cavalry, under Captain Sackett, now Inspector- the Army. During that year he served in the expedition Comanche and Kiowa Indians, participating in all the which his company was engaged, and was subsequently Fort Arbuckle, whence the United States forces were driven

army in the campaign through Georgia, and subsequently joined G eral Thomas's command, and participated in the battle of Nashv having his horse shot under him. He was captured by the enemy a confined in Andersonville prison for four months, when he was changed and rejoined his regiment in July, 1865. After the v Sergeant Dolan was in constant service in Georgia and Texas u December 16, 1870, when he was discharged for disability resulting fr the breaking out of his old wounds. After his wounds had healed again enlisted in the Sixth Cavalry November 11, 1871, and since t period has been in active service in the Indian Territory and Arizo enlisting once more in Company F of the Fifth Cavalry December 10, 18

In October, 1863, Sergeant Dolan was recommended for promotion all the officers serving with his regiment, but did not go before a bo for examination. Again, in 1864, he was recommended for a commiss and ordered before a board for examination, but failed to pass the s geon's scrutiny on account of the wounds received at Snow Hill.

Sergeant Dolan's testimonials are of the most unexceptionable cl acter, and, as indicative of their general tenor, the committee cite "character on discharge" given to him by his respective company c manders:

March 27, 1855. "A gallant and excellent soldier." R. S. Ewell, captain, First D goons.

March 27, 1860. "A brave and faithful soldier." R. S. Ewell, captain, First Drago

July 20, 1864. "A brave, energetic, and faithful soldier." John G. Webster, se lieutenant, Fourth United States Cavalry.

July 20, 1867. "A scrupulously honest and upright soldier, and one of the best sergeants in the Army." Clarence Mauck, brevet-major and captain, Fourth Un States Cavalry.

December 16, 1870. "Sergeant Dolan has been first sergeant of my company Fourth Cavalry) since April, 1862, during which time he has shown himself a fait and honest soldier, and an honest and trustworthy man." Clarence Mauck, capt Fourth Cavalry, commanding Company B.

November 11, 1876. "There is not a more brave or honest soldier, or better sergeant, in the United States Army." Frank West, first lieutenant, Sixth Cav commanding Company H.

To these the committee might add, were it deemed necessary, most flattering indorsements from a large number of officers of the s eral commands with which Sergeant Dolan has served, but they c sider it essential to say only that the testimonials referred to are simply of a formal character, but they are warm, hearty, and even ent siastic, and are such as to convince the committee that the applican eminently worthy of and justly entitled to the relief for which he se He is now in advanced years, suffering from wounds received in serv as well as from the results of hardships, exposure, and imprisonm and the committee have no hesitation in recommending his promot and retirement as a measure of justice, as well as of generosity.

O

ONGRESS, } SENATE. { REPORT
ession. } { No. 139.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

UMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 80.]

mittee on Military Affairs, to whom was referred the bill (S. 80) horize the Secretary of the Treasury to ascertain and report to ess the amount of money expended and indebtedness assumed by the of Kansas in repelling invasions and suppressing Indian hostili- ive had the same under consideration, and submit the following re-

his bill is identical with the one on the same subject that was nsidered by this committee in the last Congress, and which he Senate, but was not acted upon by the House. The com- ee no reason for a reversal or modification of the conclusion ched, and therefore they readopt the views expressed in the re- ch accompanied the bill, and recommend the passage of the measure.

port referred to is as follows:

under consideration provides that the Secretary of the Treasury shall be l to examine, settle, and audit all proper claims of the State of Kansas for xpended by it in organizing, arming, equipping, supplying, subsisting, ng, and paying the volunteer and militia forces of the State called into ac- e by the governor thereof, after the 15th of April, 1861, to aid in repelling and suppressing Indian hostilities in said State and upon its borders, and action thereon to Congress.

rs to the satisfaction of the committee that the State of Kansas has actually nd paid expenses in repelling invasion and suppressing Indian hostilities, such expenditures were made necessary by the state of affairs existing at the question remaining to be considered is whether or not the general gov- s properly chargeable with such expenditures.

nmittee are of the opinion that from the legislative history of Congress it he understanding that the government was so liable.

approved March 21, 1828, the Secretary of War was required to pay the the militia of the State of Illinois and the Territory of Michigan, called out mpetent authority, on the occasion of the then recent Indian disturbances, he expenses incident to the expedition should be settled according to the the claims. (See Laws of United States, vol. 4, p. 258.)

pproved March 1, 1837, an appropriation was made for the payment of the volunteers called out by the proclamation of Governor Cannon, on the 28th 836, to suppress Indian hostilities; and a direct appropriation was also made or Cannon to reimburse him for moneys expended on account of such volun- e Laws of United States, vol. 5, p. 150.)

pproved March 3, 1841, a direct appropriation was made to the city of Mo- ivances of money and expenses incurred in equipping, mounting, and send- place of rendezvous two full companies of mounted men, under a call from or of Alabama, at the beginning of the hostilities of the Creek Indians. (See . 5, p. 435.)

f August 11, 1842, $175,000 was appropriated as a balance for the payment

and indemnity of the State of Georgia for any moneys actually paid by said Stat account of expenses in calling out her militia during the Seminole, Cherokee, Creek campaigns, or for the suppression of Indian hostilities in Florida and Alab (See Laws, vol. 5, p. 504.) By act approved August 29, 1842, a similar appropri was made to the State of Louisiana. (See Laws, vol. 5, p. 542.)

By act approved July 7, 1838, an appropriation was made to the State of New of such amount as should be found due by the Secretary of War and the accou officers of the Treasury, out of the appropriation for the prevention of hostiliti the northern frontier, to reimburse the State for expenses incurred in the protecti the frontier in the pay of volunteers and militia called into service by the gove (See 5 U. S. Stats., p. 268.) By an act approved June 13, 1842, the State of Main reimbursed for the expenses of the militia called into service by the governor fo protection of the northeastern frontier. (See 5 U. S. Stats., p. 490.)

By act approved March 2, 1861, the State of California had appropriated t $400,000 to defray the expenses incurred by the State in suppressing Indian host for the years 1854, 1855, 1856, 1858, and 1859. (See 12 U. S. Stats., p. 199.)

By act approved July 2, 1836, Captains Smith, Crawford, Wallis, and Long, militia of Missouri, and Captain Sigler, of the Indiana militia, were paid for se rendered in protection of those States against Indians, and an appropriation of was made for that purpose. (See 5 U. S. Stats., p. 71.)

By act approved February 2, 1861, there was appropriated to reimburse the Ter of Utah, "for expenses incurred in suppressing Indian hostilities in said Terri the year 1853," the sum of $53,512. (See 12 U. S. Stats., p. 15.) This bill wa sidered by the House Military Committee, and was reported by Mr. Stanton, his report, says:

"The liability of the Federal Government for necessary expenses incurred States and Territories in repelling invasions of their territory by a foreign en of hostile tribes of Indians within our borders, has been so often recognized can no longer be considered an open question.

"The committee also believe that the action of the State and Territorial aut in calling out their military force and engaging in hostilities furnished at leas *facie* evidence of the necessity of their action.

"As there is no evidence before the committee tending to show that these were unnecessarily incurred, the committee feel bound to recognize the liabili claim."

By the act approved June 21, 1860 (it being an Army appropriation bill), of $18,988 was appropriated to reimburse the State of Iowa for the expenses o called out by the governor "to protect the frontier from Indian incursions." U. S. Stats., p. 68.)

By the same act the sum of $123,544.51 was appropriated to the State of T the "payment of volunteers called out in the defense of the frontier of the St the 28th of February, 1855." By the "act making appropriations for the sun expenses of the government for the year ending June, 1864, and for other pu an appropriation was made "to pay the governor of the State of Minnesot duly authorized agent, the costs, charges, and expenses properly incurred State in suppressing Indian hostilities within said State and upon its border year 1862, not exceeding $250,000, to be settled upon proper vouchers to be passed upon by the proper accounting officers of the Treasury." (See 12 U. S p. 754.)

In the sundry civil bill of the following year an appropriation of the sum of was made to the same State "to supply a deficiency in the appropriation for t charges, and expenses properly incurred by the State of Minnesota in suppre dian hostilities in the year 1862." (See 13 U. S. Stats., pp. 350, 351.)

By act approved May 28, 1864, the sum of $928,411 was appropriated for ment of damages sustained by citizens of Minnesota "by reason of the depr and injuries by certain bands of Sioux Indians." (See 13 U. S. Stats., p. 92.)

Besides the appropriation made to the State of California, before referred t approved August 5, 1854, the sum of $924,259.65 was appropriated to reimb State for expenditures "in the suppression of Indian hostilities within the St to the 1st day of January, 1854." (See U. S. Stats. at Large for 1853 and 185

The question of the liability of the general government for the payment of of demands seems to have been carefully considered by the Committee on Affairs of the House, in connection with this claim of California for reimburs

Mr. McDougal submitted the report of the committee, in which he said:

"The question remaining for consideration is whether or not the general go is properly chargeable with their expenditures.

"It is the opinion of this committee that the obligation of the Federal Go to furnish specific and particular defense to each several State is included i gation to maintain the 'common defense' of the confederacy. That invas abroad, insurrections at home, and aggressions from the savage tribes inhab

's are alike within the protective province of the Federal Government. Congress ses the exclusive power 'to raise and support armies in time of peace,' and pos- the power to call forth the militia 'to suppress insurrections and repel inva-

In the tenth section of the first article of the Constitution the States stipulate hey will not 'keep troops or ships of war in time of peace.'

ie conclusion necessarily follows that the general government is, by the implied, the express, terms of the Federal compact, bound.

ie question here presented appears to have been distinctly raised in 1831 upon n presented by the State of Missouri. By act approved March 3 of that year, ess made an appropriation for the service of the Missouri militia against the is, 'provided that the Secretary of War shall, upon full investigation, be satis- iat the United States are liable for the payment of said militia, under the second aph of the tenth section of the first article of the Constitution of the United .' (See Laws, vol. 4, p. 465.)

eneral Cass, then Secretary of War, examined the subject submitted, and gave inion of the government as to its constitutional obligations, affirming the lia- of the government, and directing payment to be made to the State of Missouri. stances of similar legislation might be cited, but it is belived that but little doubt ist either as to the constitutional obligation or the exposition given by Congres- legislation."

committee, after having given the subject such consideration as time and op- ity would allow, feel bound to conclude that the general government owes to ites the duty of protection, especially against the incursions of hostile savages, hom the United States authorities have, from the foundation of our govern- exercised a kind of parental control. And this being the case, when, from any the States are not given such protection, and reasonable and necessary expen- incurred by such States in repelling invasions from the Indians and suppress- tilities, reimbursement should be made for the same by the United States.

claim of the State of Kansas coming, as we believe it does, within the princi- stated, should, in the opinion of the committee, be paid whenever the proper has been satisfactorily determined.

bill provides for no appropriation, but leaves that matter to be determined er by Congress upon the facts to be reported by the Secretary of the Treasury, he provision of the bill.

ommittee, therefore, recommend that the bill be passed without amendment.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 140.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 50.]

The Committee on Military Affairs, to whom was referred the bill (S. 50) for the relief of James A. Barr, have had the same under consideration, and respectfully report:

That the facts and equities of the case presented by the claimant for relief cannot be in doubt. He entered the service as a private in Company H, Twenty-sixth Regiment Ohio Volunteer Infantry, and served faithfully with that regiment until near the close of the war, or until the winter of 1864–'65. He was appointed a second lieutenant of said company and regiment, April 15, 1862, and on the 22d of the same month entered upon the duties of that position. He was mustered with the company and paid on the company rolls. Owing to the interruption of communication his commission from the governor of Ohio never reached him. He was subsequently promoted to be first lieutenant and regimental quartermaster, and was mustered to date from December 1, 1862. He could not then be regularly mustered into the rank of second lieutenant to cover the period during which he actually served in that capacity, because, as has already been stated, his commission had been lost. On a final settlement of his accounts with the Treasury Department he was charged with the amount so paid to him as second lieutenant by virtue of his service, but without a commission. The committee believe that he was entitled to his pay, that the failure to muster properly was through no fault of his, and that he ought to be paid the sum withheld from him on account of this item charged against him. A bill substantially the same as the one under consideration passed the Senate in the last Congress, and received, as we are informed, the approval of the Military Committee of the House, which committee, however, had no opportunity to report it.

The committee, therefore, recommend the passage of the bill without amendment.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 141.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 180.]

The Committee on Claims, to whom was referred the bill (S. 180) entitled "A bill for the relief of George V. Hebb," have considered the same, and report thereon as follows:

The claimant was an assistant quartermaster in the volunteer forces of the United States during the Mexican war, with the rank of captain. For three months and a half, that is, from the 1st day of July, 1848, to the 15th day of October, 1848, during his term of service as such assistant quartermaster, he kept, used, and supported three horses and one servant, for which he was entitled to pay under the Army regulations in force at that time.

Among other evidence submitted by the claimant to your committee is a letter from the Second Auditor of the Treasury, of which the following is a copy, viz:

TREASURY DEPARTMENT,
SECOND AUDITOR'S OFFICE,
September 11, 1856.

SIR: The amount found due you for pay and subsistence for yourself as assistant quartermaster to volunteer forces from 1st of July to the 15th of October, 1848, has been this day confirmed by the Comptroller and transferred to your credit on the books of the Third Auditor. The amount is $260.60.

To entitle you to the pay and subsistence for servant and forage for horses it will be necessary for you to make affidavit that you kept and employed the same, furnishing, at the same time, the description of the servant.

Very respectfully,

P. CLAYTON,
Second Auditor.

GEORGE V. HEBB, Esq.,
Assistant Quartermaster, United States Army, Mulberry, Tenn.

The claimant states that he did not, at that time, make the affidavit required by this letter, for the reason that he was then a man of considerable property; that he resided in the State of Tennessee, remote from Washington, and he did not want to be bothered with the matter. He further states that he subsequently met with pecuniary reverses and became poor and needy. He then made the affidavit, as required by said letter, and caused the same to be duly filed in the office of the Second Auditor, but was then told that it was too late for the department to settle with him.

This bill simply directs the proper accounting officers of the Treasury to audit Captain Hebb's claim for any balance that may be found

due him, and to pay him the amount found due in full settlement of the same. The bill also appropriates a sufficient sum of money to pay the amount found due, not exceeding $136.50.

It satisfactorily appears that Captain Hebb kept three horses and a servant for three months and a half; that he subsisted them at his own expense, and that, upon making proof of the same by his own affidavit, he would be entitled to pay and subsistence for his servant and forage for his horses; that, for reasons already stated, he did not make and furnish this affidavit until November 15, 1877, and that the time had then elapsed within which the department had authority to settle with him.

Captain Hebb is now old and poor. If the government owes him, payment ought to be made; but it cannot be made until his account or claim is audited and settled.

In order that the Treasury Department may make such settlement and payment, if any amount is found due Captain Hebb, we think this bill ought to pass; and we therefore recommend that it do pass.

O

TH CONGRESS, 2d Session. | SENATE. | REPORT No. 142.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1880.—Ordered to be printed.

r. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 687.]

he Committee on Claims, to whom was referred the bill (S. 687) entitled "A bill for the relief of C. Bohn," have examined the same, and submit thereon the following report:

No evidence *under oath* is submitted in support of the bill.

The papers accompanying the bill are the following, viz:

The unsworn petition of C. Bohn, addressed to the Senate and House F Representatives.

The unsworn petition of C. Bohn addressed to the President of the nited States.

A copy of the order of the Secretary of War, denying the application f Mr. Bohn for permission to erect a building on the military reserve t Fortress Monroe, in which to carry on the business of a stationer and ewsdealer.

The petition addressed to the Senate is long and rambling, but, in ubstance, it sets forth that Mr. Bohn, the petitioner, was given permission by President Tyler to carry on business as a newsdealer at Fortress Monroe. That he carried on that business at that place without interruption until 1863.

That while General Butler was in command at Fortress Monroe, in 863 and 1864, he required the petitioner to pay a license fee of $625 er month for the privilege of carrying on his business. The petitioner eglects to state for what length of time he continued to pay this license ee. The statement made in regard to its payment is, "That said sum f $625 per month was continuously exacted and paid for and during months." The petitioner alleges that he understood the privilege ranted to him by General Butler to be an *exclusive* privilege; but he oon found that other persons were selling books, periodicals, and newspapers to the soldiers, and that he then stopped payment.

That at another time during the war the provost marshal at Bermuda Hundred required the petitioner to pay a monthly license of $250 for the privilege of carrying on the business of a newsdealer at that point. That he paid this monthly license for three months. But this was not all that this oppressed gentleman was required to pay, for he avers that the provost at Fortress Monroe required him to pay, during the year 1865, a monthly tax of $25.

It does not appear what amount the petitioner paid under General Butler's order. He claims to have paid $750 under the order of the provost-marshal at Bermuda Hundred, and $300 under the order of the provost-marshal at Fortress Monroe.

The petitioner says that he owned a house situated on the military reserve at Fortress Monroe; that this house was condemned by the authority of the War Department, and it was removed, to his great loss. The petitioner, after the removal of his house from the military reserve, as already stated, had a good deal of trouble with the military authorities at Fortress Monroe about a building on the reserve in which to do business. It seems, from the petitioner's own story, that he became very annoying to the military officers in command at Fortress Monroe; and, finally, on the 13th of May, 1879, the Secretary of War made a peremptory order, denying the petitioner's application for permission to erect a building on the military reservation at Fortress Monroe, and revoking any previous authority granted to the petitioner to carry on business at that place, and requiring him to close up his business there at once.

The petitioner says he has been wronged, and has suffered pecuniary loss by reason of the said several acts of which he complains. He does not seem very certain what he ought to be paid for, but thinks, on the whole, that some of the money paid by him as license money ought to be paid back to him. He expresses no opinion as to the amount of compensation to which he deems himself entitled.

It must be apparent from the facts as above recited that the petition does not show that the United States is indebted to him either legally or equitably in any sum whatever. We might have disposed of the case upon the ground that the claim is not sustained by *any* legal or sworn evidence; but, we base our conclusion upon the fact that there is no justice or equity in the claim. We recommend the indefinite postponement of the bill.

O

CONGRESS, Session. | SENATE. | REPORT No. 143.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

NDOLPH, from the Committee on Military Affairs, submitted the following

REPORT:

nmittee on Military Affairs, to whom was referred the memorial of ly Kennon, asking an appropriation of $15,000, to be expended under rection of the Secretaries of War and Navy, to test his invention of nterpoise battery, beg leave to report:

rly Kennon claims in his memorial that he is a graduate of the States Naval Academy, educated in the art and science of war; is the inventor and holds letters-patent for a "counterpoise for the protection of cannon in coast defense and the field, also d iron-clad vessels for river and harbor defense." In his judg- s well as in that of experts, he claims his invention is of great the land and naval forces of the United States. The par- merit he claims for his battery is the almost perfect security l to the guns and the men who work them, the cheapness and ity of construction. He does not desire the appropriation for any tive purposes, as he asserts, but believes $15,000 are necessary to proper and sufficient test. Mr. Kennon says he has constructed his batteries near Alexandria, in Egypt, which proved so suc- that he received for it from the Khedive the decoration of the rial Ottoman Order of the Medjidith."

Secretary of War was written to in relation to the purposes of the alist, who replied in a letter dated May 14, 1879, inclosing a re- om the Board of Engineers for Fortifications. This, with the f the Secretary, are added to this report.

the report of the Board of Engineers of Fortifications, it ap- hat the invention of Beverly Kennon has already been tested, and ions set forth at length "the judgment of the board was unfavor- the proposition for building a battery after this design." Your tee therefore ask to be discharged from the further consideration subject.

WAR DEPARTMENT,
Washington City, May 14, 1879.

cknowledging the receipt of the reference of the memorial of Beverly Kennon, Congress to appropriate $15,000, or so much thereof as may be necessary, to ded under the direction of the Secretaries of War and Navy to test his inven- counterpoise battery, I have the honor to inform you that this invention mitted to the Engineer Department by the inventor in November, 1876, and to the Board of Engineers for Fortifications for examination and report. It seen from the copy of the report of the board, which is herewith, that the t of the board was unfavorable to the proposition for building a battery after gn for trial.

ry respectfully, your obedient servant,

G. W. McCRARY,
Secretary of War.

'. F. RANDOLPH,
United States Senate.

Memorial and accompanying paper are returned herewith.

OFFICE OF BOARD OF ENGINEERS FOR FORTIFICATIONS,
Army Building, New York, January 13, 1878.

GENERAL: We have the honor to acknowledge the receipt of Mr. Beverly Kennon' letter to you of November 26, 1876, on the subject of his counterpoise battery, wit his pamphlet and drawings describing and illustrating the same, all of which wer referred to us for examination and report by your indorsement of November 29, 187 on said letter.

Having investigated the same, we now present the following report thereon:

REPORT.

In Mr. Kennon's system the gun, carriage, and chassis, and circular platform up which they rest, are supported by counterpoise weights, so that they may be rais and depressed at pleasure by suitable machinery, worked by man-power. The wel in which this alternate vertical motion takes place is surrounded by a cylindric vertical wall, about six feet thick, the wall itself being covered on the exterior by a earthen parapet. Masonry casemates, for quarters for the men attached to the bat tery, for storage of all needed supplies, including ammunition, are designed to be buil around this well far below the surface of the ground. Access to these casemates i attained through the well.

The foregoing are the essentials of Mr. Kennon's system, the details of which a set forth by his accompanying drawings and specifications.

The movable part of this battery, by which the gun is raised and depressed, is it characteristic feature. The need of some arrangement by which guns of large calib in barbette batteries, after being fired, may be depressed so as to be loaded under th cover of the parapet has been fully set forth by our report of November 11, 1871. Th necessity does not exist to a like extent for batteries lightly armed, for the reason th guns of small caliber can be quickly loaded, and without much exposure of the gu ners above the parapet.

As the 600 or 700 pounder rifled gun will probably be, in the future, the smalle gun needed for our barbette batteries exposed to attack by sea-going armored shi of war, it is proper to test Mr. Kennon's system by its adaptability to guns of th caliber.

For a permanet structure, like that under examination, durability, if not strengt requires the use of iron rather than wood. We have therefore assumed that the pla form, with its bracings and all its parts, is to be of iron. To this platform a diamet of 25 feet has been given, to receive the 12-inch rifled gun and carriage recently devis by the Ordnance Corps.

In order that the magnitude of this structure may be readily comprehended, a the force estimated that will be required to give alternate vertical motion to the pla form after each discharge, the weights of all parts involved in the movement ha been calculated, and are approximately as follows:

	Pounds
Weight of gun recently devised by Ordnance Corps	89,0
Weight of gun carriage and chassis	45,0
Weight of movable platform, with its braces, designed to give required strength	120,0
	254,0
Weight of six counterpoises, each 42,333⅓	254,0
Four 4-inch wire ropes support each counterpoise; 800 feet of this rope, at 2½ pounds per foot, will weigh	2,0
Total moving weight is	510,0
Six pulleys and twenty-four friction-rollers weigh	22,0
Total weight giving friction	532,0

Friction, stiffness of cordage, and inertia are the passive forces that oppose t power to move the above weight down and up between discharges of the piece.

	Pounds
Power of friction gearing being 36, resistance due to friction on axles of friction-rollers will be $\frac{532,000 \times .075}{36} =$	1,1
The stiffness of cordage for each rope is about 75 pounds: for 24 ropes	1,1
Excess of weight of ropes on one side or the other as platform is up or down is 960 pounds. If the platform be balanced when at half its height, the excess of weight at the commencement of motion to raise or depress it due to the wire ropes will be	
Resistance due to friction of wheels and axles for raising and depressing platforms is	
	3,

Pounds.

f the loss of power in this gearing and of the further friction on
n guide-roller axles it would be proper to assume the total resist-
dependent of inertia, at not less than 4,000

ıen at the cranks, each exerting a force of 21 pounds, through a wheel and
ination possessing a power of 24, can lift 4,032 pounds, and hence overcome
resistance of 4,000 pounds.

tle extra exertion, these eight men gradually impart to the mass to be moved,
ıg its inertia, the velocity required to raise it to its full height of 8 feet in
e of time. Two minutes will therefore be consumed in raising and depress-
un between consecutive discharges. This loss, between discharges of the
y two minutes in maneuvering the platform, supposes the machinery to be in
ler, and to meet with no impediment to its working from any cause what-

: of this barbette battery for a single gun, omitting all casemates, excepting
e for ammunition, will be approximately as follows:

Estimate.

ron in suspended platform, 120,000 pounds, at 10 cents	$12,000 00
ron in axles of suspension wheels, friction-rollers, and guides for ı, 3,790 pounds, at 10 cents	379 00
n counterweights, 254,000 pounds, at 4 cents	10,160 00
n suspension wheels, friction-rollers, and beds, 39,600 pounds, at	1,584 00
.* 800 feet, at 53 cents	424 00
facing for pit, 256 cubic yards, at $40	10,240 00
ıcluding magazine, 928 cubic yards, at $8	7,424 00
ing of coping for wall (2″ thick), 50,400 pounds, at 10 cents	5,040 00
r moving suspended platform	500 00
ɪ, sods, &c	5,000 00
	52,751 00
cies	7,249 00
ıl	60,000 00

going estimate is based upon the design submitted by Mr. Kennon, omitting
ıtes for quarters. This design could, doubtless, be so modified as to reduce
.te to $50,000; an excess, however, of nearly $40,000 per gun, over the cost of
te battery as now built. The expenditure of $40,000 per gun for an ar-
; to effect its depression after being fired, so that it may be loaded under the
he parapet, is simply enormous, in view of the result attained, viz, the par-
tion only of the gunners while loading.

xpenditure of $3,000 per gun the ordinary barbette battery may be made to
e 12-inch rifled gun mounted on King's carriage, which we think superior to
ɔn's method of effecting the depression of the gun.

mated approximate cost of a casemate battery large enough to receive the
l-ton gun, and furnished with a wrought-iron shield 25 inches thick, is, per
00; for a 12-inch gun with wrought-iron shield 25 inches thick, per gun,

e foregoing it appears that the system of Mr. Kennon, if adapted to the great
must hereafter be used for sea-coast defense, will cost nearly, if not quite, as
gun as a casemated battery with iron shields. The motive for resorting to
:te system is its economy. Modifications that make the cost of the barbette
ted equal, or nearly so, to that of the casemate gun, must cause their rejection.
ɔre of cost alone, we are of opinion, therefore, that the barbette system of
ɔn is inadmissible.

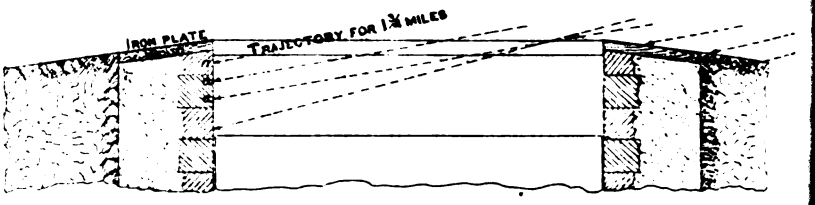
is system the gun is mounted in a pit, any shot striking the parapet sur-
the pit, whether stopped or bounding over it, will throw into the well a
ɔf *débris*. If a shot or shell strike the stone wall which rises nearly to
ɜ of the parapet, it will throw stone into the pit in spite of the 2-inch iron
This *débris* will interfere, more or less, with the raising and depressing of
rm. But if shot and shell strike the reverse wall surrounding the well,
on the following cut at *a a a*, the stone thrown back will deluge the plat-

---

ɔbable that the 4-inch wire ropes, estimated to bear the constant strains to
y are to be subjected with a large factor of safety, will need to be increased
ɜndure the shock thrown upon them when the gun is fired at high elevations,

form. It was shown by experiments made by this board at Fort Monroe, in the autumn of 1868, that when solid shot impinge upon a stone wall fragments are thrown back various distances, even as far as 100 yards from the face of the masonary. Shells exploding after a little penetration would throw back much greater quantities of fragments than solid shot.

It is our opinion, therefore, that a gun thus mounted, that is, in a pit surrounded by a stone wall, could not be served, if exposed to the projectiles now used in naval attacks.



Mr. Kennon might dispense with the parapet and wall for about one-half of its circumference, and thus do away, in great part, with the exposure of masonry to reverse fire. The exposure of the platform, by reason of its great size, to injury from vertical fire and the liability of the pit, during an engagement, to be partially filled with earth and stone *débris*, render it probable that the raising and depressing of the platform would be so seriously interfered with as to prevent the rapidity of fire essential to effective service.

In view of the foregoing objections to Mr. Kennon's device, and of the fact that its cost would be out of all proportion to its utility, and almost as great as that of a casemate structure with an effective iron shield, this board cannot recommend the building and battery for trial after his design.

The drawings (6) and descriptive memoir of Mr. Kennon's system, together with his letter of November 26, 1876, are herewith returned.

Respectfully submitted.

J. G. BARNARD,
Col. U. S. Eng. and Brt. Maj. Gen'l.
Z. B. TOWER,
Col. of Eng. and Brt. Maj. Gen'l.
H. G. WRIGHT,
Lt. Col. Eng. and Brt. Maj. Gen'l.

Brig. Gen. A. A. HUMPHREYS,
Chief of Engineers, U. S. A., Washington, D. C.

ONGRESS, } SENATE. { REPORT
Session. } { No. 144.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

LLER, from the Committee on Claims, submitted the following

REPORT:

mmittee on Claims, to whom was referred the petition of Walbridge, nd & Brown, of Saint Louis, State of Missouri, have had the same consideration, and submit the following report:

etitioners claim the sum of three hundred and eighty-seven dol- service as stenographers before a United States commission in of Saint Louis, in 1875. It appears by the affidavit of William that he was United States attorney for the eastern district of ri; that a United States prisoner by the name of McCortney, s confined under a charge of counterfeiting, escaped from prison, was charged that one Head had aided his escape. Head was l, and Patrick employed petitioners to take the testimony before mission. The Department of Justice refused to allow the bill, petitioners now come to Congress. The Department of Justice at Patrick had no authority to employ the petitioners, and we cannot be contended that any such authority did exist. It was ty of the petitioners to see to the authority of Patrick in that before they rendered the service. There must be check on ex- n the Department of Justice, and we think it not unreasonable hold this authority from United States attorneys; and we there- spectfully recommend that the prayer of the petitioners be denied

O

6TH CONGRESS, 2d Session. } SENATE. { REPORT No. 145.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

r. LOGAN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 389.]

he Committee on Military Affairs, to whom was referred the bill (S. 389) for the relief of Peter Phillips, have duly considered the same, and submit the following report:

The bill provides for the payment to Peter Phillips of the pay and llowances of a first lieutenant of cavalry, from October 14, 1863, to arch 9, 1864, less the pay and allowances of a sergeant of cavalry.

Peter Phillips bases his claim upon these facts: That a vacancy existed n the office of first lieutenant, Company F, Fifteenth Illinois Cavalry olunteers, from and after July 18, 1863, up to March 9, 1864, and that uring all said time said company, by reason of its numbers, was legally titled to a first lieutenant, and that a commission to said Phillips, as rst lieutenant of said Company F, in said regiment, to fill said vacancy, as duly issued by the governor of Illinois on said October 14, 1863, nd that he then entered upon the discharge of his duties as such first ieutenant, and so continued up to March 9, 1864, when he was mustered n as such first lieutenant, and that he was not sooner mustered in beause his said commission was not actually received by him until about arch 9, 1864, and that his failure to receive his commission was no fault r neglect of his, and occurred by reason of his absence, sick, and on tached service, and that he has failed to receive the pay and allowce of first lieutenant because he failed to receive his commission at n earlier date.

Your committee addressed a letter to the Secretary of War, and received he following:

WAR DEPARTMENT,
Washington City, December 4, 1878.

SIR: Referring to the letter of Mr. J. J. Noah, clerk to the Committee on Military airs, dated July 15 last, requesting, at the instance of Senator Cockrell, that the mmittee be advised respecting the propriety of affording the relief contemplated by nate bill 1009, "for the relief of Peter Phillips," I have the honor to return said bill, gether with a report thereon by the Adjutant-General of the Army, dated July 23, 78.

There does not appear to be any objection to the passage of the bill referred to.

Very respectfully, your obedient servant,

GEO. W. McCRARY,
Secretary of War.

Hon. F. M. COCKRELL,
Of Committee on Military Affairs, United States Senate.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, July 23, 1

SIR: I have the honor to return herewith the communication of Hon. F. M. rell, of Committee on Military Affairs, United States Senate (per J. J. Noah, inclosing Senate bill No. 1009, for the relief, and a report in the case of, Peter P late first lieutenant Fifteenth Illinois Cavalry Volunteers, and to inform you t official records of the Fifteenth Regiment Illinois Cavalry Volunteers on file office show that Peter Phillips was mustered into service as first lieutenant regiment to date from March 9, 1864. On the rolls of Company F, from Octo 1863, to February 29, 1864, he is mustered for pay as first lieutenant commandi pany, with the remark, "has been doing duty as first lieutenant since July 1

The company had but one officer (captain), and he is reported as absent, s on detached service during the period mentioned.

The return of the regiment for August, 1863, shows that Company F was on d service at Vicksburg, Miss., where it remained until December, 1863, when it the regiment at Helena, Ark.: it again left in January and remained abse May, 1864.

Although service appears to have been rendered by Phillips in the grade and the period claimed, he was not in possession of his commission, the same not been received by him until about March 6, 1864; and therefore the relief propo not come within the regulations established by the War Department in confor law (see marked paragraphs of the printed slip herewith).

I have the honor to be, sir, very respectfully, your obedient servant.

R. C. DRUM,
Adjutant-Ge

The Hon. SECRETARY OF WAR.

The following is a collection of orders, issued by the War Department, rel musters into the service of the United States of commissioned officers of volu ganizations:

I. General Orders No. 15, May 4, 1861:

* * * * * * *

The volunteers called into service under the proclamation of the President United States, dated the third day of May, 1861, will be subject to the laws a lations governing the Army of the United States.

* * * * * * *

[NOTE.—Before an officer of the Army of the United States (Regular) can act under a commission or appointment, he must be *in receipt* of such commissio pointment.]

II. General Orders No. 49, August 3, 1861:

The following acts of Congress are published for the information of the Arm

AN ACT to authorize the employment of volunteers to aid in enforcing the laws and protecti property.

* * * * * * *

SEC. 2. *And be it further enacted,* That the said volunteers shall be subject rules and regulations governing the Army of the United States, and that they formed, by the President, into regiments of infantry, with the exception of su bers for cavalry and artillery, as he may direct, not to exceed the proportion company of each of those arms to every regiment of infantry, and to be organiz the regular service. Each regiment of infantry shall have one colonel, one lieu colonel, one major, one adjutant (a lieutenant), one quartermaster (a lieutena surgeon and one assistant surgeon, one sergeant-major, one regimental quarte sergeant, one regimental commissary sergeant, one hospital steward, two p musicians, and twenty-four musicians for a band, and shall be composed of t panies, each company to consist of one captain, one first lieutenant, one lieutenant, one first sergeant, four sergeants, eight corporals, two musicia wagoner, and from sixty-four to eighty-two privates.

* * * * * * *

SEC. 4. *And be it further enacted,* * * * The governors of the States fu volunteers under this act, shall commission the field, staff, and company office site for the said volunteers.

* * * * * * *

SEC. 9. *And be it further enacted,* That there shall be allowed to each regi chaplain, who shall be appointed by the regimental commander on the vote of officers and company commanders on duty with the regiment at the time the

be made. The chaplain so appointed must be a regular-ordained minister
ian denomination, and shall receive the pay and allowances of a captain of
d shall be required to report to the colonel commanding the regiment to
attached, at the end of each quarter, the moral and religious condition of
nt, and such suggestions as may conduce to the social happiness and moral
nt of the troops.

* * * * * *

l, July 22, 1861.

y Regulations of August 10, 1861, extract paragraph 1638:

lunteers are to be mustered into the service of the United States, they will,
time, be minutely examined by the surgeon * * * * *
whether they have the physical qualifications necessary for the military

ral Orders No. 61, August 19, 1861:

* * * * * *

e-half a company has been mustered into service, the first lieutenant thereof
mustered in, and when the organization of the company is completed, the
l second lieutenant can be so mustered.

* * * * * *

l staff officers of regiments can be mustered into service upon the comple-
organization of regiment or companies, as follows:
-Entire regiment.
nt-Colonel—Four companies.
ix companies.
—Entire regiment.
—Entire regiment.
—Entire regiment.
aster—Entire regiment.
Surgeon—Entire regiment.

* * * * * *

ral Orders No. 66, August 26, 1861:

ommissioned officers of all volunteer and militia organizations, no matter
stablished under the authority of a State or of the United States, will be
having been commissioned on the day when mustered into the service of
States, and will take rank in their respective grades, will be entitled to pay,
yed and respected in their several positions from that date.

* * * * * *

ral Orders No. 78, September 16, 1861:

* * * * * *

governors of the several States may, at any time during the organization
eer regiment, authorize the adjutant, quartermaster, and, when absolutely
the medical officers thereof, to be mustered into service to aid in recruiting
nt and for the prompt transaction of all other public business. All other
l be mustered into the service as directed in General Orders No. 61, current
this office.

eral Orders No. 75, July 8, 1862:

anizing new regiments of volunteers, the governors of States are hereby
to appoint, in addition to the staff-officers heretofore authorized, one sec-
ant for each company, who shall be mustered into the service at the com-
of the organization, who shall have authority to muster in recruits as they
l. If any recruit shall be enlisted by such officer, who shall afterwards, on
spection, prove to have been obviously unfit for the service at the time of
ent, all expenses caused thereby shall be paid by such officer, to be stopped
from any payment that may be coming to him from the government there-

er thus appointed and mustered, shall only be entitled to be paid, on the
l pay-roll of his company, and should he fail to secure an organized com-
in such reasonable time as the government may designate, his men may
red to some other company, his appointment be revoked, and be discharged
y, unless the governor shall think proper to give him a position in the con-
ompany to which his men have been transferred.

* * * * * *

VIII. General Orders No. 79, July 15, 1862:

The following acts of Congress are published for the information of all concer

* * * * * * *

II. AN ACT to provide for additional medical officers of the volunteer servic

* * * * * * *

SEC. 3. *And be it further enacted*, That instead of "one assistant surgeon," as pro by the second section of the act of July 22, 1861, each regiment of volunteers i service of the United States shall have two assistant surgeons.

Approved July 2, 1862.

* * * * * * *

IX. General Orders No. 91, July 29, 1862:

The following acts of Congress are published for the information of all concern

AN ACT to amend the act calling forth the militia to execute the laws of the l suppress insurrection, and repel invasion, approved February twenty-eight, sev hundred and ninety-five, and the acts amendatory thereof, and for other pu

* * * * * * *

SEC. 8. *And be it further enacted*, That all officers who have been mustered in service of the United States as battalion adjutants and quartermasters of cavalry the orders of the War Department, exceeding the number authorized by law, sl paid as such for the time they were actually employed in the service of the l States, and that all such officers now in the service, exceeding the number afo shall be immediately mustered out of the service of the United States.

* * * * * * *

SEC. 11. *And be it further enacted*, That the cavalry forces in the service of the l States shall hereafter be organized as follows: Each regiment of cavalry shall ha colonel, one lieutenant-colonel, three majors, one surgeon, one assistant surge regimental adjutant, one regimental quartermaster, one regimental commissa sergeant major, one quartermaster sergeant, one commissary sergeant, two h stewards, one saddler sergeant, one chief trumpeter, and one chief farrier or smith, and each regiment shall consist of twelve companies or troops, and eac pany or troop shall have one captain, one first lieutenant, one second lieutena one supernumerary second lieutenant, one first sergeant, one quartermaster se one commissary sergeant, five sergeants, eight corporals, two teamsters, two far blacksmiths, one saddler, one wagoner, and seventy-eight privates; the regi adjutants, the regimental quartermasters, and regimental commissaries to be from their respective regiments: *Provided*, That vacancies caused by this organi shall not be considered as original, but shall be filled by regular promotion.

Approved July 17, 1862.

X. General Orders No. 126, September 26, 1862:

* * * * * * *

II. Chaplains must meet the requirements of section 8 of the act of July 17, 1

No person shall be appointed a chaplain in the United States Army who i regularly ordained minister of some religious denomination, and who does not p testimonials of his present good standing as such minister, with a recommendat his appointment as an Army chaplain from some authorized ecclesiastical b not less than five accredited ministers belonging to said religious denomination

After chaplains are appointed, under section 9 of the act of July 22, 1861, the be mustered into service by an officer of the Regular Army, and thereafter borne field and staff roll of the regiment.

Mustering officers, before mustering chaplains into service, will require from copy of the proceedings on which the appointment is based. The said copy, if conformable to the requirements of the law, will be indorsed by the mustering and by him forwarded to the Adjutant-General's Office, for file with the muster-

* * * * * * *

XI. General Orders No. 48, February 25, 1863:

The following regulations are established in regard to musters into and out service of the United States of officers and enlisted men of volunteers in the fie

I. Only officers of the Regular Army (including additional aids-de-camp ap by the President, under the act approved August 5, 1861) will be detailed to into and out of the service of the United States, and *no officer will make these unless detailed to do so by competent authority.*

* * * * * * *

IV. Commanders of corps or departments will see that each regiment, inde company, &c., is assigned to some one of the assistant commissaries of muste

their command. The commissaries of musters will be responsible to the Adjutant-General of the Army for the correctness of the musters and muster-rolls in their corps, *and no officer shall be mustered in or out except by a commissary or assistant commissary of musters to whom the command to which he belongs has been assigned.*

V. No officer or enlisted man of volunteers is properly in the service of the United States, or authorized to receive pay, until mustered in by the proper officer; and no officer is properly out of service until discharged in orders, or mustered out by the proper officer. *One copy of the rolls or order in each case must be forwarded to this office.*

* * * * * * *

VIII. The following rules will be observed in all musters in or out:

1st. An officer must present his commission, or appointment, from the governor of the State to which the regiment or organization into which he desires to be mustered belongs.

2d. The mustering officer must ascertain from the records of the regiment or organization, such as muster-rolls, monthly returns, and morning reports, that a vacancy exists.

3d. If an officer has been commissioned as above, and a vacancy exists, and he is *physically fitted* for duty, he may be mustered into the service of the United States *from the date on which the muster-in actually takes place.*

4th. *No muster-in shall be dated back without authority from the Adjutant-General,* except upon proof that it could not have been made at an earlier date, which proof shall consist of the affidavit of the officer, accompanied by that of his regimental or detachment commander, setting forth that he has made all proper efforts to have himself mustered in, but without success, before the time at which he now presents himself. These affidavits must be attached to the copy of the muster-in roll intended for the Adjutant-General.

5th. No officer shall be mustered in to date back beyond the time that he has *actually been performing the duties of the grade into which he desires to be mustered,* nor beyond the time at which a vacancy is proved to have existed by the regimental or company records. *If on the muster and pay rolls the applicant appears mustered for pay in one grade, he cannot be mustered into the service to cover the same period as of any other.* Gross errors on this point are frequently committed by mustering officers; therefore special attention is invited to it.

6th. Musters into and out of service must be made for each new grade of commissioned officers, as well as when enlisted men or citizens are appointed commissioned officers. A discharge in orders or by order of the proper authority is, in all cases, a muster-out of the service of the United States, and *no muster-out rolls will be furnished in such cases.*

7th. Muster in and out must be made on separate rolls, and a separate roll must be made for each grade. *Officers or enlisted men of different companies or regiments must not be mustered in or out on the same rolls.*

8th. Hereafter, no person will be taken up on any muster-rolls as an officer, of any grade, until mustered into the service of the United States as such in that grade, whether he be commissioned by the governor or not, unless he be appointed or commissioned by the President.

9th. A muster once made will in no case be altered, except by authority from the Adjutant-General of the Army; and all applications for alteration must pass through the mustering officer, if possible.

10th. Troops organizing in their respective States—including recruits for regiments in the field—and those organized and not in the field, will be mustered by the duly-appointed mustering officers for the States. *Said officers have no authority to muster commissioned officers belonging to organizations which have left the State.*

11th. Enlisted men having received commissions or appointments will not be mustered in as commissioned officers until they shall have been discharged as soldiers by the department or corps commander.

* * * * * * *

XII. General Orders No. 73, March 24, 1863:

The following acts of Congress are published for the information of all concerned:

* * * * * * *

AN ACT for enrolling and calling out the national forces, and for other purposes.

* * * * * * *

SEC. 19. *And be it further enacted,* That whenever a regiment of volunteers of the same arm, and from the same State, is reduced to one-half the maximum number prescribed by law, the President may direct the consolidation of the companies of such regiment: *Provided,* That no company so formed shall exceed the maximum number prescribed by law. When such consolidation is made, the regimental officers shall be reduced in proportion to the reduction in the number of companies.

SEC. 20. *And be it further enacted,* That whenever a regiment is reduced below the

minimum allowed by law, no officers shall be appointed in such regiment beyond those necessary for the command of such reduced number.

Approved, March 3, 1863.

* * * * * * *

XIII. General Orders No. 86, April 2, 1863:

I. Under the authority contained in sections 19 and 20 of the act "for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, it is ordered that for each and every regiment of the volunteer army *now reduced, or that may be reduced hereafter, as set forth in said sections*, consolidation shall be made in accordance with the following rules:

INFANTRY.

1. Each regiment will be consolidated into *five or a less number of companies*, and the colonel, major, and one assistant surgeon mustered out.

CAVALRY.

2. Each regiment will be consolidated into *six or a less number of companies*, and the colonel, two majors, and one assistant surgeon mustered out.

ARTILLERY.

3. Each regiment will be consolidated into *six or a less number of batteries*, and the colonel, two majors, and one assistant surgeon mustered out.

4. The companies and batteries formed by consolidation will be of the maximum strength, and will be organized as now directed by law and regulation. *The first letters of the alphabet will be used to designate the companies.*

5. The company officers—commissioned and non-commissioned—rendered supernumerary, with those enumerated in the foregoing, will be mustered out of service at the date of consolidation. All other officers and non-commisssioned officers will be retained.

6. The officers to be retained will be selected by the division and corps commanders, under the instructions of the commanding general of the Army or department, from among the most efficient officers of the respective regiments.

II. After the consolidations, as herein directed, the reduced proportion of officers will be maintained, and no appointments to vacancies will be made, except upon notification from the Adjutant-General of the Army.

* * * * * * *

XIV. General Orders No. 182, June 20, 1863:

I. Under the requirements of section twenty of the act "for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, it is ordered that the following rules shall govern whenever a regiment is "*reduced below the minimum number allowed by law*," but is of a strength above half the maximum.

INFANTRY.

1. Each regiment will be deprived of the colonel and one assistant surgeon. Each company—provided it is reduced below the minimum—will be deprived of the second lieutenant.

CAVALRY.

2. Each regiment will be deprived of the colonel, one major, and one assistant surgeon. Each company—provided it is reduced below the minimum—will be deprived of the second lieutenant.

ARTILLERY.

3. Each regiment will be deprived of the colonel, one major, and one assistant surgeon. Each company (battery)—provided it is reduced below the minimum—will be deprived of the additional officers authorized to be added at the President's discretion. (See G. O. 110, A. G. O., 1863.)

There being no minimum for artillery fixed by existing orders, the minimum for the object herein named will be 1,044 aggregate for a regiment, and 86 aggregate for a battery.

II. In reaching the reduced standard, herein fixed, all officers in the enumerated grades—*now properly in service*—will be retained until the said grades become vacant by the usual casualties of the service. After the reductions are thus made, the reduced proportion will be maintained, and no appointments to vacancies—*in the grades enumerated*—will be made, except upon notification, from the commissary of musters for the department, or corps, that *the regiment is above the minimum*. To this end, the commissary of musters will report weekly to the governor of the State, or appointing power *through the commanding general of the department or corps.*

* * * * * * *

XV. General Orders No. 191, June 25, 1863:

* * * * * * *

VI. Officers of regiments whose terms have expired will be authorized, on proper plication, and approval of their respective governors, to raise companies and regi- ents within the period of sixty days; and if the company or regiment authorized to raised shall be filled up and mustered into service within the said period of sixty ys, the officers may be recommissioned of the date of their original commissions, d for the time engaged in recruiting they will be entitled to receive pay belonging their rank.

* * * * * * *

IX. Officers in service, whose regiments or companies may re-enlist, in accordance th the provisions of this order, before the expiration of their present term, shall ve their commissions continued, so as to preserve their date of rank as fixed by their ginal muster into United States service.

* * * * * * *

XVI. General Orders No. 131, March 31, 1864:

ieneral Orders No. 75, series of 1862, are hereby rescinded, and the following orders ll govern hereafter, in lieu thereof:

. In organizing new regiments or independent companies of volunteers, the gov- ors of States are hereby authorized to appoint, in addition to the staff officers here- ore authorized, one second lieutenant for each company, who shall be conditionally stered into service at the date of his appointment. Any officer thus appointed and stered shall only be entitled to be paid on the muster and pay-roll of his company, l should he fail to enlist an organized company within such time as the War Depart- nt may designate, the men enlisted by him shall be transferred to some other com- ny; his appointment shall be canceled, and he shall be discharged without pay, un- s the governor give him a position in the consolidated company to which his men ll have been transferred.

I. Mustering officers will report promptly to the Adjutant-General of the Army the me of every recruiting lieutenant mustered into the service by them, under a con- ional letter of appointment, together with the company and regiment for which he recruiting. Officers will be mustered into the service only on the authority of the vernor of the State to which their regiments belong.

* * * * * * *

IV. Until regiments or independent companies are organized and mustered in, they ll be under the control of the governor of the State; but all requisitions for quarter- ster, medical, and ordnance stores, all contracts for fuel, straw, and subsistence, and requisitions for transportation, must be approved by the superintendent of volun- r recruiting service for the State or division.

* * * * * * *

XVII. General Orders No. 62, August 11, 1866:

The following acts and joint resolutions of Congress are published for the informa- n and government of all concerned:

* * * * * * *

JOINT RESOLUTION for the relief of certain officers of the Army.

Be it resolved by the Senate and House of Representatives of the United States of America Congress assembled, That in every case in which a commissioned officer actually en- ed on duty as such commissioned officer, but by reason of being killed in battle, pture by the enemy, or other cause beyond his control, and without fault or neglect his own, was not mustered within a period of not less than thirty days, the pay partment shall allow to such officer full pay and emoluments of his rank from the te on which such officer actually entered on such duty as aforesaid, deducting from amount paid in accordance with this resolution all pay actually received by such cer for such period.

EC. 2. *And be it further resolved,* That the heirs or legal representatives of any officer ose muster into service has been or shall be amended hereby shall be entitled to re- ve the arrears of pay due such officer, or the pension provided by law for the grade which such officer is mustered under the provisions of the first section of this olution.

pproved July 26, 1866.

XVIII. General Orders No. 90, July 20, 1870:

he following joint resolution of Congress is published for the information and gov- ment of all concerned:

NT RESOLUTION amendatory of "Joint resolution for the relief of certain offi- cers of the Army," approved July twenty-six, eighteen hundred and sixty-six.

e it resolved by the Senate and House of Representatives of the United States of America ongress assembled, That joint resolution entitled "Joint resolution for the relief of

certain officers of the Army," approved July twenty-six, eighteen hundred and sixty-six, shall be so construed and amended that, in all cases arising under the same, the person to whom the commission shall have issued shall be considered as commissioned to the grade named therein from the date when the commission was issued by competent authority, and entitled to all pay and emoluments as if actually mustered at that date: *Provided*, That, at the time of the issuing of the same, he was performing the duties of the grade to which he was commissioned, or from such time after the issuing of his commission as he may have actually entered upon such duties.

SEC. 2. *And be it further resolved*, That persons held as prisoners of war by the enemy or who may have been in hospital by reason of wounds or disability at the time of the issuing of their commissions, shall be entitled to the same pay, emoluments, and benefits under this resolution as if actually performing the duties of the grade to which they were commissioned.

SEC. 3. *And be it further resolved*, That this resolution shall not be construed to apply to cases in which, under the laws and Army regulations existing at the time, there could have been no lawful muster into service even after the actual receipt of the commission.

Approved July 11, 1870.

Your committee then addressed another letter of inquiry to the Secretary of War and received the following:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., December 16, 1875.

SIR: I have the honor to acknowledge the receipt of your communication of the 14th instant, requesting, on behalf of the Committee on Military Affairs, United States Senate, to be furnished with certain additional information relative to the case of Mr. Peter Phillips, late first lieutenant Fifteenth Illinois Cavalry Volunteers, and to inform you that the official records of the Fifteenth Regiment Illinois Cavalry Volunteers on file in this office show that a vacancy occurred for a first lieutenant in Company F of said regiment, on July 18, 1863, *vice* First Lieut. George F. Hubbard, discharged for disability on that date, which vacancy existed until filled by the muster in of Peter Phillips, on March 9, 1864. The records also show that during said period the company was entitled by reason of numbers to a first lieutenant.

It appears from evidence on file that the commission of Phillips as first lieutenant was issued by the governor of Illinois on October 14, 1863, but that the same not having been received by him until about March 9, 1864, his claims, presented to this office for recognition prior to that date, were rejected under the joint resolutions of Congress approved July 26, 1866, and July 11, 1870, by letters from here dated January 12, 1869, and September 9, 1873, respectively, copies herewith, as requested.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

Hon. F. M. COCKRELL,
United States Senate, Washington, D. C.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, January 12, 1869.

SIR: I have respectfully to acknowledge the receipt of the papers in your case requesting that you may be allowed pay as first lieutenant, Fifteenth Illinois Cavalry, from October 14, 1863, to March 9, 1864.

In reply, I have to inform you that the regulations of this department prohibit the recognition of any person as an officer prior to the date he receives his commission and enters upon duty under the same with his proper command.

It would appear from the records of this office that you did not receive your commission until early in March, 1864. Your request, therefore, cannot be granted.

Your discharge (in orders) as sergeant, commission, muster-in roll, and discharge (in orders) as first lieutenant, and certificates of non-indebtedness from the Ordnance and Second Auditor's (property branch) Office are returned herewith.

I am, sir, very respectfully, your obedient servant,

THOMAS M. VINCENT,
Assistant Adjutant-General.

Official copy.

SAM. BRECK,
Assistant Adjutant-General.

Mr. PETER PHILLIPS,
Late First Lieutenant Fifteenth Illinois Cavalry,
Care W. J. Conkling, Esq., Springfield, Ill.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, September 9, 1873.

SIR: Referring to your claim for pay, from October 14, 1863, to March 9, 1864, as rst lieutenant Fifteenth Regiment Illinois Cavalry Volunteers, under the "joint resolution (approved July 11, 1870) amendatory of 'joint resolution for the relief of cerin officers of the Army,'" approved July 26, 1866, you are respectfully informed that has been rejected.

Section 3 of said joint resolution is as follows:

"That this resolution shall not be construed to apply to cases in which, under the ws and Army regulations existing at the time, there could have been no lawful musr into the service even after the actual receipt of the commission."

"The laws and Army regulations existing at the time," under which "there could ive been no lawful muster into the service," are, in your case, as follows:

I. The act of Congress approved July 22, 1861, authorizing the employment of voluners:

1st. That act made binding upon the volunteers the "rules and regulations governg the Army of the United States."

2d. It vested the authority to commission officers in the governors of the respective ates. There was no legal power vested in the commanding officer of the regiment appoint you; you therefore could not legally be a commissioned officer until you d received the governor's authority (the commission) to act.

II. War Department General Orders No. 66, of 1861. That order fixed the day when nstered into the service of the United States as the date of commission in said serce, and from which the officer is entitled to pay and to be respected in his position.

III. War Department General Orders No. 48, of 1863. Under that order no enlisted an could enter upon duty as a commissioned officer until after the receipt of his comission or appointment, and thereafter, in order to be mustered, it had to appear from cord evidence that he entered upon duty under the said commission or appointment. our muster-in (March 9, 1864) recognized you as first lieutenant from the date the ficial records of this office show that you legally entered upon duty under your comission.

I am, very respectfully, your obedient servant,

THOMAS M. VINCENT,
Assistant Adjutant-General.

Official copy.

SAM. BRECK,
Assistant Adjutant-General.

Mr. PETER PHILLIPS,
Late First Lieutenant Fifteenth Illinois Cavalry,
Care of W. J. Conkling, Esq., Attorney, &c., Springfield, Ill.

Your committee have carefully considered all the evidence shown by the foregoing reports and orders, and find that the claims of said Phillips for the pay and allowances of first lieutenant are fully sustained, and that his failure to receive his commission was not caused by any neglect or omission on his part, and that he is fairly and legally entitled to the relief sought by the bill, and therefore report back to the Senate the said bill and recommend its passage.

O

ɔTH CONGRESS, 2d Session. | SENATE. | REPORT No. 146.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

. LOGAN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 390.]

The Committee on Military Affairs, to whom was referred Senate bill). 390, authorizing the President to restore Capt. Dunbar R. Ransom his former rank in the Army, having had the same under considera- ɔn, beg leave to report that they have carefully examined the papers ferred with the bill, and find that Dunbar R. Ransom was a captain the Third Artillery, United States Army; that on the 23d day of ctober, 1872, he was arraigned before a military court-martial, at the y of New York, charged—

1st. "With conduct unbecoming an officer and gentleman in violation the 83d Article of War.

2d. "Conduct to the prejudice of good order and military discipline violation of the 99th Article of War."

The specifications to both charges are substantially as follows: On e 14th day of May, 1867, Captain Ransom, then stationed at Fort Sul- ·an, in the State of Maine, borrowed from one John H. Sanborn, then e hospital steward at that fort, the sum of two hundred and seventy- ·e dollars, thereby placing himself under pecuniary obligations to said ınborn. That said Captain Ransom had paid of said loan the sum of 3.45 only, and that he had neglected to pay the residue of said loan ıen the same was demanded of him; but did, by several letters written ɔm Fort Pulaski, in Georgia, ask the indulgence of Sanborn; also ɜ pardon for his delay in payment; also charging him with intent to ceive and fraudulently avoid the payment of the same.

Upon the trial of Captain Ransom on these charges and specifications, e court found him guilty of all and sentenced him "to be dismissed e service of the United States."

The committee are of opinion, after carefully examining all the evi- ınce adduced, that the court erred in its findings as well as the law the case. The evidence adduced on the trial, as disclosed by the ınscript of the proceedings of the court, now before the committee, ows that Captain Ransom was, at the time he borrowed the money, ıder orders from his superiors to proceed to Fort Laramie, then Da- ɔta, and that he made the loan for the purpose of defraying his ex- ınses in obeying that order. It is also shown that he gave Sanborn ɜ promissory note for the sum borrowed, payable on demand with in- rest at six per centum. From the whole evidence adduced on the al, the transaction was one of purely a private nature between indi- luals competent in all respects, though one was an officer and the ıer a private. There is no evidence even tending to show that Ran-

som practiced any fraud or deceit in obtaining the loan, nor is there any circumstance attending the negotiation of the loan from which the slightest inference can be drawn that Captain Ransom had any other intention than that of repaying the money borrowed when called upon; indeed, that is not charged.

Your committee are not aware that it is a crime, in either civil or military life, for a debtor who has contracted, honestly and in good faith, a debt which, by reason of misfortune, unforeseen accident, or mistaken business management, he fails to pay at the appointed time; certainly not such as to incur so severe a penalty as that inflicted upon Captain Ransom in this case.

It appears from the testimony of the principal prosecuting witness, Sanborn, that when he loaned the money to Ransom he stated that he would not require its return until the following October. (Page 15 of the transcript.) He also testifies, on page 18, that he did not write to the captain on the subject of the loan until after the receipt by him of the $75 remittance, some time in March, 1868. So it will be seen that this payment was made by Ransom without any demand by Sanborn.

The gravamen of the charge, if it can be dignified as such, and the finding and decision of the court, seem to rest upon the idea that Ransom, by his letters to Sanborn, in which he stated that his pay had been stopped for a long time, sought to deceive Sanborn. Whatever would have been the legal effect had that been true, it is clearly shown by the testimony of Hamilton Maxwell, clerk in the Pay Department at Washington, D. C., that Captain Ransom's pay proper was stopped from November 1, 1868, to December 31, 1869, and for part of the month of January, 1870. The letter referred to was written September 24, 1870. (Transcript, page 60.) So it will be seen that the charge and specification of the accused making false representations to avoid payment are utterly disproved by the evidence of the prosecuting witnesses. Your committee are of opinion that a great wrong has been done Captain Ransom, who for seventeen years preceding this event had served his country faithfully and without blemish on his character, and therefore report the bill back with an amendment, and recommend its passage.

O

ONGRESS, } SENATE. { REPORT.
Session. } { No. 147.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

OGAN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 388.]

bill for the relief of Jacob B. King, late first lieutenant Company hty-first Regiment Illinois Volunteers, granting him pay and allow- of that rank from June 30, 1864, to January 31, 1865, less the pay ergeant of infantry already received, is based upon the following

was promoted to the office of first lieutenant of Company C, Eighty- llinois Infantry Volunteers, and was commissioned as such June 4; was not mustered until January 31, 1865, at Eastport, Miss., to the troops being constantly on the march after Price in Mis- nd Arkansas, rendering it impossible for him to appear before a ing officer. Failure to be mustered not being caused by neglect part, he is legally and fairly entitled to the relief sought, having rged his duty as first lieutenant during the time intervening be- June 30, 1864, and January 31, 1865, and his company having the te organization to authorize his muster in. The committee recom- hat the bill do pass.

C

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 148.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

Mr. LOGAN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 131.]

The Committee on Military Affairs, to whom was referred the bill (S. 131) for the relief of John W. Chickering, have had the same under consideration, and submit the following report:

Mr. Chickering was a first lieutenant in the Sixth United States Cavalry, and was dismissed the Army by sentence of a court-martial upon a charge of drunkenness on duty, which sentence was approved by W. W. Belknap, then Secretary of War, on the 27th day of January, 1875. This bill is to reinstate him in the Army, in the cavalry arm of the service, with his previous rank and date of commission, and promotion in the line is suspended by the terms of the bill for that purpose. He is to receive no pay for the time he has been out of the service.

His petition, on file with the record, claims in substance that he was unjustly and harshly treated; that, in fact, he was not guilty of the offense charged, and that the evidence adduced upon the court-martial did not warrant, either in law or in fact, the judgment of dismissal pronounced against him. He now prays Congress to review this testimony and the action had thereon, in order that he may show the facts set forth in his petition to be true. The charge, specification, and testimony are as follows:

CHARGE.

Drunk on duty in violation of the 45th Article of War.

Specification.—In that First Lieut. John W. Chickering, Sixth Regiment of United States Cavalry, having been detailed and on duty as "officer of the day" of the First Cavalry battalion of an expedition against hostile Indians, was found drunk. This, at or near the camp of the First Cavalry battalion on the Canadian River, near Oasis Creek, Texas, on or about the 26th day of September, A. D. 1874.

To which charge and specification the accused pleaded as follows:

To the specification, not guilty.

To the charge not guilty.

The proceedings and testimony are as follows:

All persons witnesses in this case and not members or officers of the court were then instructed to withdraw and remain in waiting, and did so withdraw.

Second Lieut. THOMAS B. NICHOLS, Sixth Cavalry, a witness on the part of the prosecution, being duly sworn, testified as follows:

By the JUDGE-ADVOCATE:

Question. What is your name, rank, and regiment?—Answer. Thomas B. Nichols; second lieutenant, Sixth Cavalry.

Q. Do you know the accused? If so, please state who he is.—A. First Lieutenant John W. Chickering, Sixth Cavalry.

Q. State what you know, if anything, about the accused being drunk on duty
On the 24th day of September, 1874, at the camp of the first battalion of cavalr
Osans Creek, Texas, Lieutenant Chickering, the accused, was detailed as officer o
day of the camp. As battalion adjutant I formed the guard about 5 p. m. and o
arrival of the accused I turned it over to him. I immediately entered my tent
in a few moments was ordered by the commanding officer to place the accused
rest, which I proceeded to his tent and did.

Q. What was the condition of the accused at the time?—A. He was intoxicated

Q. What description of intoxication?—A. Providing intoxication into three sta
think the accused was in the second state. He was too intoxicated to perform
duty. The intoxication was shown by the books, manner, and gait of the accused
was intoxication from the use of ardent spirits, apparently.

Q. Are you or not acquainted with the mode of action or manner of the ac
when he is under the influence of intoxication from the use of ardent spirits
Yes, sir.

Q. Describe the manner and actions of the accused on this occasion.—A. His m
was as though he was confused, and actions as shown by his gait, unsteady.

Q. What military force did the First Cavalry battalion, Sixth Cavalry, then f
part of?—A. The Indian Territory expedition, Col. Nelson A. Miles, Fifth Inf
commanding.

Q. What military operations was this expedition then engaged in?—A. In an o
sive war against the Indians—hostile Indians.

Cross-examined by the ACCUSED:

Q. With what acknowledgment did I receive the guard from you?—A. By no
your head.

Q. How far from the guard was I when you turned the guard over to me?—A
more than three or four yards.

Q. What was the distance from my tent to where the guard was formed?—A. I
seventy-five yards, more or less.

Q. What was the nature or character of the ground over which I was obli
pass in going from my tent to the place where the guard was formed?—A. I
rough ground, covered with bushes and stubble.

Q. Was it not exceedingly difficult for a person to pick his way through a
time?—A. It was tolerably difficult.

The accused had no further questions to ask.

By the COURT:

Q. What was there in the manner and actions of the accused that led you to b
he was intoxicated from the use of ardent spirits?—A. His confused manner an
steady gait and his books.

Q. How long before the accused assumed his duty as "officer of the day" did
ceive his detail for that duty?—A. About two hours.

Q. Did the accused, within your knowledge, drink any intoxicating liquor durin
day?—A. I did not see the accused drink anything that day.

Q. What is the usual manner or mode of action of the accused when he is und
influence of intoxicating liquor?—A. Exactly as I described it on this occasion.

There being no further questions to put to this witness, his testimony was r
him, pronounced correct, and he withdrew.

Maj. CHARLES E. COMPTON, Sixth Cavalry, a witness on behalf of the prosec
having been duly sworn, testified as follows:

By the JUDGE-ADVOCATE:

Question. What is your name, rank, and regiment?—Answer. Charles E. Com
major, Sixth Cavalry.

Q. Do you know the accused? If so, please state who he is.—A. I do: First
tenant John W. Chickering, Sixth United States Cavalry.

Q. State what you know, if anything, of the accused being drunk on duty.—
the 26th day of September, 1874, the accused reported to me as officer of the day f
camp of the first battalion, Sixth Cavalry, Indian Territory expedition, on the

Cross-examined by the ACCUSED:

Q. Did you recognize or receive me as officer of the day?—A. I did not give the ac-
ed any instructions or say anything to him on account of his condition.
Q. How far was I from you when I reported?—A. Perhaps six or eight feet. It
ght have been ten. I do not recollect precisely.
Q. What is the nature and character of the ground over which I was obliged to pass
going from my tent to where the guard was formed?—A. Sandy and somewhat
ered with grass and dwarfed sunflowers; I think that is the only flower I recollect
ing there, where we were camped.
Q. Was it not difficult for a person to proceed from one place to another in camp?—
Not at all; not, I might say, during the day-time. There were about the camp a
patches of plum-bushes which one might have some little trouble in getting
ough at night. I do not mean trouble; I mean annoyance.
The accused had no further questions to ask.
There being no further question to put to this witness, his testimony was read to
, pronounced correct, and he withdrew.

Capt. TULLIUS C. TUPPER, Sixth Cavalry, a witness on the part of the prosecution,
ing been duly sworn, testified as follows:

By the JUDGE-ADVOCATE:

Question. What is your name, rank, and regiment?—Answer. Tullius C. Tupper;
tain, Sixth Cavalry.
Q. Do you know the accused? If so, please state who he is.—A. I do; Lieutenant
ckering, Sixth Cavalry.
Q. Did you see the accused on the day on which he is alleged to have been drunk
duty?—A. I did.
Q. What was his condition when you saw him?—A. He was intoxicated.
Q. What duty were you on that day?—A. I was officer of the day.
Q. What description of intoxication?—A. He was intoxicated to that degree that
he been under my command I would not have intrusted him with the performance
my duty. I would call it maudlin.
Q. Where was this?—A. In the afternoon, about the twenty-fifth or twenty-sixth of
tember, 1874.
Q. At what hour in the afternoon did you last see the accused?—A. I presume about
hour before sundown; near five o'clock p. m.
Q. What were his manner and actions at that time?—A. His utterance was thick;
language incoherent. He gave me the impression that he was so much intoxicated
did not know what he was about.
Q. Where did this occur?—A. At the camp of the first battalion of cavalry, on Oasis
ek.

Cross-examined by the ACCUSED:

Q. Where was I when you last saw me?—A. Leaving my tent.
Q. How long had I been in your tent?—A. Fully two hours, I think.
Q. Who was present at that time?—A. Captain Morris, of the Eighth Cavalry, was
esent a portion of the time. He left before the accused.
Q. What was my manner of salutation on my entrance?—A. I do not recollect any-
ing peculiar concerning his manner of salutation.
Q. Did I drink anything while in your tent?—A. You did not.
The accused had no further questions to ask.

By the COURT:

Q. Was the accused on duty at the time you saw him in the condition you described
your testimony?—A. Not that I know of.
Q. Who relieved you as officer of the day on the day in question?—A. I was not
gularly relieved. I did not appear at guard-mounting.
Q. Who succeeded you as officer of the day?—A. The accused was detailed to re-
ve me. The accused was detailed as officer of the day.
Q. What was the condition of the accused at the time of guard-mounting?—A. I did
t see him at the time of guard-mounting. I last saw him probably three-quarters of
hour before guard-mounting on that day.
There being no further questions to ask this witness, his testimony was read to him,
nounced correct, and he withdrew.
The JUDGE-ADVOCATE announced that the prosecution here rested.

Maj. CHARLES E. COMPTON, Sixth Cavalry, a former witness on the part of the pros-
ution, being recalled for the defense, gave additional testimony as follows:

By the ACCUSED:

Question. Was I under your immediate command from the 11th day of August to

the 24th day of September, 1874? If so, please state in what manner I have perfo my military duties during that time.—Answer. You were, and your military duti to that time were performed in a very satisfactory manner.

Q. State during that time the kind and nature of the duties required of me an der what circumstances.—A. The usual routine duties of an officer of his rank. was engaged part of the time with his company, a part of the time in command detachment of the same company in an action against hostile Indians on the 30t of August, 1874.

The accused had no further questions to ask.

The JUDGE-ADVOCATE declined to cross-examine the witness.

There being no further questions to put to this witness, his testimony was r him, pronounced correct, and he withdrew.

Trumpeter FRANK GEREMIAH, of Company D, Sixth Cavalry, a witness on th of the defense, having been duly sworn, testified as follows:

By ACCUSED:

Question. What is your name, rank, company, and regiment?—Answer. Trump Frank Geremiah: Company D, Sixth Cavalry.

Q. On what duty were you on or about the 26th day of September, 1874?—A. orderly trumpeter of the first battalion.

Q. Did you see me on that day, and under what circumstances?—A. I saw hi several occasions. The first was when I delivered the commanding officer's co ments, Colonel Compton, and said that the herd was straying around and tl should be kept closer to camp. The next was an order from the adjutant; I cou tell what the order was, but I think it was for a board of survey, when I deli the adjutant's compliments saying that he would be officer of the day. This w tween three and four o'clock. I saw him several times passing around, throug day.

Q. Did you notice anything peculiar in my manner or actions at any of the you saw me, and particularly at the delivering of the detail for officer of the day No, sir; I did not.

Q. What was my manner on receipt of the detail for officer of the day, and did I say?—A. He acted perfectly sober, was standing to attention, and said " good."

Q. Where was I at this time?—A. About five or ten paces from his quarters. lieve he was going up to Major Tupper's quarters.

Q. Dip you notice any signs of intoxication upon me at this time?—A. I did n

Q. Had their been would you have noticed it?—A. Yes, sir; I would have noti

The accused had no further questions to ask.

Cross-examined by the JUDGE-ADVOCATE:

Q. At what hour did you give the detail to the accused?—A. Between thre four o'clock in the afternoon.

There being no further questions to put to this witness, his testimony was r him, pronounced correct, and he withdrew.

Sergeant WILLIAM T. CLAYTON, of Company D, Sixth Cavalry, a witness on tl of the defense, having been duly sworn, testified as follows:

By the ACCUSED:

Question. What is your name, rank, company, and regiment?—Answer. Ser William T. Clayton; Company D; Sixth Cavalry.

Q. On what duty were you on or about the 26th day of September, 1874?—A. . quartermaster-sergeant of Company D, Sixth Cavalry.

Q. Did you see me on that day? If so, under what circumstances and on wl casion?—A. Yes, sir. I was standing opposite Captain Irwin's tent, and I saw tenant Chickering come out of Captain Irwin's tent. He then had his hand throat. He walked into Captain Irwin's tent and put on his belt. He had a government boots on and changed them for a pair of light ones. He then brush coat and walked out of the tent. He went to the rear of the tent, towards Major ton's tents when the doctor stopped him and spoke to him. I did not hear wl conversation was. I have nothing further to say. I was called away to the ki tent at that time.

Q. At what other time during the day did you see me?—A In the fore part day, when Lieutenant Chickering ordered me to have four picket-posts put up.

Q. How did I appear on the times referred to, as to sobriety?—A. Perfectly s

The accused had no further questions to ask.

Cross-examined by the JUDGE-ADVOCATE:

Q. How far were you from Captain Irwin's tent when you saw the accused from there?—A. I was about thirty feet, sir.

Q. Can you distinguish government boots from other heavy boots at that distance?—. Yes, sir.
Q. What were you doing while the accused was employed as you describe in his nt?—A. Standing idly at the picket-line.
Q. What attracted your attention so particularly to the actions of the accused in e tent?—A. Nothing particularly attracted my attention to him except that I saw m going from Captain Tupper's tent to his own or to Captain Irwin's tent. They th stopped in one.
Q. How far was the picket-line from the tent of the accused?—A. About thirty feet, I said before; between twenty-five and thirty feet, as near as I can go.
There being no further questions to put to this witness, his testimony was read to him, nounced correct, and he withdrew.

JOHN MURPHY, citizen, a witness on the part of the defense, having been duly sworn, stified as follows:

By the ACCUSED:

Question. What is your name, and who are you?—Answer. John Murphy, a citizen.
Q. In what capacity are you employed?—A. Servant for Lieutenant Chickering.
Q. Were you aware of my being detailed as "officer of the day" on or about the ith day of September, 1874?—A. Yes, sir.
Q. Did I make any preparation for the same just before going on guard? If so, state hat I did and what I said.—A. Yes, sir; he asked me where were his clean boots, and brought them. He asked me then for his side-arms, and I brought them to him. He ut them on, and then asked if the guard was long being waiting. I told him about hree minutes. He then asked me for a clothes-brush, and he brushed his clothes, tarted from the tent toward his guard. The last I saw of Lieutenant Chickering was within four or five paces of the guard.
Q. Did you see anything unusual in my manner or actions? Had there been anything wrong or out of the way would you have noticed it?—A. No, sir, I did not. Yes, sir. I would.
Q. What was my condition as to sobriety?—A. He was sober, and he did not drink while he was at his tent, until he went over to his guard, sir.
The accused had no further questions to ask.
The JUDGE-ADVOCATE declined to cross-examine.

Upon this testimony Lieutenant Chickering was found guilty of the charge, and sentenced to be cashiered, notwithstanding the recommendation of Capt. E. P. Ewers, Fifth Infantry, Capt. Wylys Lyman, Fifth Infantry, and Lieut. George W. Baird, Fifth Infantry, who were members of the court and constituting a majority thereof, respectfully requesting, in view of Lieutenant Chickering's honorable record as an officer, the clemency of the reviewing officer might be extended toward him. General Pope approved the findings and sentence, and refused to concur in the recommendation for clemency.

The following is the order of Secretary Belknap approving the proceedings, findings, and sentence:

WAR DEPARTMENT,
Washington City, January 27, 1875.

In conformity with the 65th of the Rules and Articles of War, the proceedings of the general court-martial in the foregoing case of First Lieutenant John W. Chickering, Sixth Cavalry, have been forwarded to the Secretary of War for the action of the President of the United States.

The proceedings, findings, and sentence are approved.

W. W. BELKNAP,
Secretary of War.

Your committee here quote from the able report of Senator Maxey on the bill (Senate 352) authorizing the restoration of George A. Armes to the Army, by which it will be observed the case of Lieutenant Chickering falls within the rule adopted by your committee in the Armes case:

The material and essential fact—that which is essential to the validity of the order dismissal, to wit, that the President has reviewed the proceedings and confirmed e sentence, nowhere affirmatively appears. It would be as difficult to sustain this per as evidencing that fact upon authority, as to sustain a record of a court of crim-l jurisdiction in a capital case, which did not show affirmatively the appearance of

the accused, his arraignment, his plea, the election, impaneling and swearing of the jury, the hearing of evidence and argument, the charge by the court, the return into court of the verdict, the judgment thereon, &c., &c. In short, nothing on principle can be taken by intendment in a case like this, involving the character of the accused, and the very fact that the law makes the President the final reviewing officer *only* in cases of sentences of death and of dismissal from the service, shows the jealousy with which the law wisely protects the character of the officer from unjust aspersion and accusation. Were there nothing in the way but the orders of June 7, 1870, and June 2, 1872, the committee would feel constrained to recommend a bill authorizing and instructing the President to review the case. It is manifest that the President's duty in this regard is judicial, and therefore cannot be performed by any one save the President himself. The record of *his* judgment, of *his* "decision and orders," may, of course, like any ministerial act, be performed by another hand, but the *judgment*, the *decision*, the *orders* in the case, must result from the operation of his mind and conscience.

It nowhere appears that the proceedings, findings, and sentence were laid before the President for his action, either affirmatively or negatively, and there can be no doubt in the minds of your committee that the mandatory laws which require that the proceedings, findings, and sentences of a court-martial shall, at least, be laid before the President for executive action, were ever complied with. Hence if the views of Senator Maxey, above quoted, be correct, and your committee have already sustained them in the Armes case, then Lieutenant Chickering's dismissal was *coram non judice*. It follows, therefore, that he has never been legally out of the Army. It will be preceived by the following letter, filed with the record, from Mr. O. L. Pruden, assistant secretary to the President, addressed to Lieutenant Chickering, that no record of executive action upon the proceedings of the general court-martial in his (Chickering's) case could be found upon the books of the Executive Mansion.

EXECUTIVE MANSION,
Washington, April 8, 1878.

DEAR SIR: In reply to your inquiry of the 5th instant, I have to say that I do not find any record of action upon the proceedings of the general court-martial in your case upon the books of this office.

It may be proper to add that the records of this office with respect to courts-martial cases are incomplete.

A call to the Capitol on official business immediately after the receipt of your note on Friday last and my absence from the city on Saturday prevented an earlier reply to your inquiry.

Very respectfully, yours,

O. L. PRUDEN,
Assistant Secretary.

To Mr. JOHN W. CHICKERING,
437 *Seventh Street, N. W., Washington, D. C.*

Careful consideration of the testimony adduced upon the trial would go to show that if the proceedings had been thoroughly and properly reviewed in a spirit of charity and liberality, contradistinguished from prejudice or vindictiveness, no other conclusion could have been reached but that Lieutenant Chickering had not been proved guilty as to the *gravamen* of the charge. Also, that the sentence of being cashiered the Army, regardless of the favorable recommendation of the majority of the members of the court and an honorable and enviable record of thirteen years' service and three brevets for gallant and meritorious demeanor on the field of battle, was extreme, unwarranted by the proof, and, your committee trust, without precedent.

The evidence for the prosecution does not show the perpetration, either by word or deed, of an overt act, such as an intoxicated person would be likely to commit. If a flushed face or a confused manner and unsteadiness of gait established *prima facia* a charge of drunkenness, without the commission, directly or indirectly, of a single offensive or

bjectionable act, your committee believe a precedent would be estab-shed which might seriously affect society and work irremediable injus-ce to individuals.

Captain Tupper, a witness for the prosecution, who testifies that Lieu-nant Chickering was intoxicated, upon cross-examination admits that ieutenant Chickering had been fully two hours in his tent prior to his 'upper's) discovery of said intoxication, and yet, during the two hours hile he was in company with him in his tent, it appears by Captain upper's testimony Lieutenant Chickering drank nothing; and this ccurred immediately preceding guard-mounting, at which time it was iarged that Lieutenant Chickering was intoxicated.

Lieutenant Nichols, a witness for the prosecution, upon being ques-oned by the court, admitted that Lieutenant Chickering, to his knowl-lge, had not drank anything that day. Nowhere does it appear in the cord of the testimony that any witness, either for the prosecution or fense, had seen Lieutenant Chickering drink or partake of any intox-ating liquor whatever on that occasion.

Four witnesses testified on behalf of the accused, who saw him con-antly that day, that he acted perfectly sober and was not intoxicated. ; will be observed that Sergeant Clayton testified that Lieutenant hickering put on his belt, changed his boots, brushed his coat, and alked out of Captain Irwin's tent to proceed to guard-mount, and that e ordered the witness during the day to erect four picket-posts.

The weight of testimony, in view of non-commission of any overt act n Lieutenant Chickering's part, would argue for, rather than against, is sobriety. Lieutenant Chickering, it appears, *had just returned* a few ays previously from a dangerous and fatiguing pursuit of hostile In-ians, *in which he had ridden about ten days and traveled a distance of over ne hundred miles with his command, during which time it rained contin-ously.*

The premises considered, your committee are of opinion that the testi-mony was of a character creating a reasonable doubt, and to such ex-ent that it should have redounded to the benefit of the accused. In act, the case for the prosecution was weak, and the offense was not roven. This view seems to be attested by the fact that a majority of he court, evidently entertaining the impression that the findings were ot properly predicated, recommended the accused to the clemency of he reviewing officer, a recommendation which General Pope might have easonably entertained. Even if the offense had been proved, the fact hat the accused committed no overt act should have entitled him to a nitigation more merciful and adequate.

Your committee are of opinion that to cashier a meritorious officer on uch evidence was a sentence extreme, if not cruel.

Your committee find, as a conclusion of law, that the order of the Sec-retary of War approving the proceedings, findings, and sentence shows n its face that the same was never laid before the President, as re-uired by law, and therefore the proceedings, findings, and sentence tand to-day as never having been properly approved and carried into ffect. The Secretary of War has no authority in law to expel an offi-er from the Army of his own motion, which appears to have been per-ormed by Secretary Belknap in this case. It therefore follows that ieutenant Chickering, in contemplation of law, is still an officer of the rmy.

It is deemed proper by your committee to append the following testi-onials of character which appear in the record:

HEADQUARTERS FOURTH ARMY CORPS,
Camp Harker, June 5, 1865.

Hon. E. M. STANTON,
Secretary of War:

I have the honor to recommend to your excellency, for promotion in the Regul Army, Capt. John W. Chickering, Eighty-eighth Illinois Volunteers.

I have known this young officer during the past year and in the tedious campaig ending in the battle of Nashville, as well as the campaign of Atlanta. I have oft noticed him as a constant hard worker, a gallant and ready officer. Captain Chicke ing is a young man of *sober* habits, of good education, and, from his experience a tried valor, I would recommend him for his present rank of captain in the Regul Army, if that position be disposable; failing in this, I would recommend him fo lieutenancy. Captain Chickering has had frequent mention in reports of battles.

Very respectfully,

D. S. STANLEY,
Major-General, Commanding.

HEADQUARTERS SECOND DIVISION, FOURTH ARMY CORPS,
Camp Harker, Nashville, Tenn., June 7, 1865.

CAPTAIN: In taking leave of you as a member of the Eighty-eighth Illinois Volu teer Infantry, detached upon my staff, I take the occasion to express my regrets to lo your services and society. You have performed your duty faithfully to the count during its struggle for the maintenance of the Union, and have participated in ma bloody battles. You have performed your duties cheerfully and well as a member my staff, and it gives me pleasure to say that in your intercourse with me and wi each other the most pleasant relations have existed; a more harmonious staff I ha never met during a service of more than nineteen years as a commissioned officer.

Trusting that you may reach your home in safety, and that you may be success in life, and we may meet again,

I am, very truly, your friend,

W. L. ELLIOTT,
Brevet Major-General, U. S. A., Commanding.

Capt. J. W. CHICKERING,
Eighty-eighth Illinois Volunteers, Acting Commissary of Musters.

HEADQUARTERS THIRD DIVISION, FOURTH ARMY CORPS,
Camp near Nashville, June 8, 1865.

To Honorable SECRETARY OF WAR:

SIR: Capt. John W. Chickering, Eighty-eighth Illinois Volunteers, and assista commissary of musters, Second Division, Fourth Army Corps, is an intelligent an active young officer.

He has served with credit to himself and usefulness to the country. He desires t remain in the military service, and to that end desires an appointment as captain lieutenant in the Regular Army.

Supposing that the condition of the country, growing out of the great and wicke rebellion, will cause an increase of the Regular Army and military establishment, an that the appointment of worthy young officers from the volunteer forces in the Regul Army would increase its efficiency, I request, respectfully, the appointment of Captai Chickering. His official record is sustained by the reports of commanders, and to the reference is respectfully made.

I am, very respectfully, your obedient servant,

THOS. J. WOOD,
Major-General Volunteers.

HEADQUARTERS FIRST DIVISION, FOURTH ARMY CORPS,
Camp Harker, Tenn., June 17, 1865.

GENERAL: It is with pleasure that I recommend Capt. J. W. Chickering, of t Eighty-eighth Illinois Volunteers, to a position in the Regular Army.

Captain Chickering served under my command during the campaign resulting in t capture of Atlanta, Ga. I always found him to be prompt, brave, and in every w the faithful and able officer.

The interest of the same would be benefited by the retention of this officer in the Army, as he is truly a gentleman in every particular and worthy and well qualified.

I am, general, very respectfully, your obedient servant,

NATHAN KIMBALL,
Brevet Major-General, United States Volunteers.

Brig. Gen. L. THOMAS,
Adjutant-General, United States Army.

NASHVILLE, TENN., *July* 5, 1865.

To whom it may concern:

I take pleasure in saying that I have known Capt. J. W. Chickering, Eighty-eighth Illinois Volunteers, and assistant commissary of musters, Second Division Fourth Army Corps, for a long time in actual service with the corps, and have found him always a gallant, brave officer and a kind gentleman, competent for any position in the Army, and worthy of confidence.

Respectfully,

W. GROSE,
Brigadier-General Volunteers.

LOUISVILLE, KY., *October* 22, 1865.

CAPTAIN: As you are about to leave the service of the United States, I take this opportunity to express my admiration of your ability, faithfulness, and efficiency as a soldier. I remember the various engagements in which you took a part from the time your regiment entered the service, in 1862, until actual fighting ceased west of the Blue Ridge, and no person in our brigade displayed greater personal courage or rendered better service in the line of their duty than yourself. I hope your future may be as prosperous and happy as your past has been honorable and useful.

I am, respectfully, your obedient servant,

W. W. BARRETT,
Brevet Brigadier-General, United States Volunteers.

J. W. CHICKERING,
Captain and Commissary of Musters.

HEADQUARTERS MILITARY DIVISION OF THE TENNESSEE,
OFFICE CHIEF COMMISSARY OF MUSTERS,
Nashville, Tenn., November 14, 1865.

DEAR SIR: It is with great pleasure that I inform you that, your work being so nearly completed, the War Department has, on my application, authorized your muster-out of the United States service.

Upon discharging you, I take the opportunity of expressing my high appreciation of your service, which has been so ably performed.

Your willingness to remain in the service so long a time after the discharge of your regiment, to devote yourself to the arduous duty of assisting to muster out an army, deserves some acknowledgment, and I sincerely trust that the brevet commission for which you have been recommended will in due time be received.

For your kindness and attention during our official intercourse you have my personal thanks, and with the hope that you may live long to enjoy the pleasant memories of field and camp,

I subscribe myself, your friend,

ALFRED L. HOUGH,
Captain and Brevet Major, Chief C. of M., Mil. Div. of Tenn., U. S. A.

Captain J. W. CHICKERING,
Eighty-eighth Illinois Infantry Volunteers.

HEADQUARTERS MILITARY DIVISION OF THE MISSOURI,
Chicago, June 14, 1869.

Respectfully forwarded.

First Lieutenant and Brevet Captain Chickering, U. S. Army, formerly of 22d Infantry, rved during the war of the rebellion in my division (of infantry) of the Army of the mberland. He was then in the 88th Illinois Volunteer Infantry, and one of the most serving young officers under my command.

Captain Chickering's record and standing in the Regular Army since his ap ment thereto is, I am informed, good. He is anxious to be placed on some activ In case an opportunity should occur, whereby his services can be used for the of the government, I hope this paper will be considered.

P. H. SHERIDAN
Lieutenant-General, U.

A true copy.

JAMES W. FORSYTE
Lt. Col. and A. D. C., Bvt. Brig. Gen., U.

The following is from Maj. Gen. Wagner's official report of t battle of Franklin, Tenn.:

My staff acted with great gallantry and efficiency. I am under especial obli to Capt. E. G. Whitesides, 125th Ohio Volunteers, A. A. A. G., Capt. J. W. Chi 88th Illinois Volunteers, commissary of musters, and Capt. J. L. Morgan, 93d Volunteers, division inspector, who are able, competent, and meritorious offic deserving of great praise for their efforts in rallying the troops.

WASHINGTON, *February* 2

DEAR SIR: In answer to your communication of this date, I beg leave to s as you are aware, a court which makes a finding of guilty upon a charge under Article of War, as in your case, has no discretion or alternative in passing s which is prescribed in the article itself, viz, dismissal.

Thus a finding of guilty under this article precludes any consideration of th of the offense.

Yours, sincerely,

W. LYM
Captain Fifth In

Mr. CHICKERING.

FORT WAYNE, MICH., *January* 17

DEAR CHICKERING: Among your many friends in the Army, none more s sympathize than myself, and I think yours was an exceptionally hard case. I to you, to be shown my friends or acquaintances, that I knew you during nea years in the volunteer service during the war, and you served over three year regiment in Dakota, the most of that time at my post. You filled places of r bility and positions requiring industry and intelligence, and filled those places never knew you in a single instance to be absent, sick, or wanting in any respe called on for duty.

When you were left out of the twenty-second by consolidation you were re and you left with the respect of all. We believed you intelligent, energetic, a est. I would add more, but believe this will convince any of my friends that I well of you and your services, and that I would like to see you fairly on y again.

Wishing you success and happier days, your friend,

D. S. STANLE
Colonel Twenty-second In

J. W. CHICKERING.

This is to certify that John W. Chickering, late first lieutenant Sixth Cava under my command at Fort Wallace, Kansas, and I considered him a good and officer, and believe that if he is reinstated in the Army there will be no cause plaint on his part.

LOUIS T. MORRI
Captain Eighth C

SAINT DENIS, BALTIMORE COUNTY, MD.,
December 21, 187

MY DEAR SIR: In case it may be of any service to you in your future movements in life, I wish to express in this letter the opinion I have formed of you since we have been connected in business, nearly a year.

Your conduct toward me has been on all and every occasion that of a gentleman. You have always been sober, trustworthy, and diligent in whatever I have had occasion to request you to do.

You have my most sincere and best wishes for your future welfare and success.

And I am, most truly, your friend,

GEO. GRAY,
Civil Engineer.

J. W. CHICKERING.

SAN FRANCISCO, *May* 11, 1878.

DEAR SIR: In reply to your communication of the 22d ult., in which you ask me to make a statement of your services and character while you were serving in my company (D) of the Sixth Cavalry, I would state that I have known you since the month of June, 1871, when you joined the company as its first lieutenant, and that you served continuously in, the greater part of the time under my immediate command, till the month of September, 1874, during which time I have always found you to be an honest, faithful, and efficient officer in every respect. During the time referred to the company was employed in scouting duty from camp near Fort Hays, Kans., in 1871; from Fort Wallace, Kans., in 1872; from camp near River Bend, Cal., in 1873; and in the Indian Territory expedition against the Kiowa, Comanche, and Arapahoe Indians in 1874. In the latter campaign, and particularly in a charge made by a battalion of the command (under Colonel Compton). on the 31st of August, on a band of Indians, you were conspicuous for coolness and daring gallantry. I would also state that for some months previous to the expedition in which your unfortunate trouble occurred you were *strictly* temperate in your habits.

Very respectfully, your obedient servant,

JOHN A. IRWIN,
Late Captain Sixth Cavalry.

JOHN W. CHICKERING,
(Late First Lieutenant Sixth Cavalry, U. S. A.,) Washington, D. C.

There is filed in the record a certificate from the Third Auditor of the Treasury, dated January 22, 1878, showing that the accounts and returns of John W. Chickering, both as captain of the Eighty-eighth Illinois Volunteer Infantry and as lieutenant of infantry and cavalry of the Army of the United States, have been examined, found correct, and closed. This shows Lieutenant Chickering to have been a prompt and upright officer, who has disbursed necessarily large sums of the public money as quartermaster and as commissary at Fort Sully, Dakota Territory, and at Carlisle Barracks, Pennsylvania, also upon recruiting service, with integrity, honesty, and fidelity.

A drunken, worthless officer is not likely to be trusted with the disbursement of large sums of public money, or, if trusted, to pass honorable and commendatory examination of the rigid scrutiny of the accounting officers of the Treasury as has Lieutenant Chickering.

At the first session of the Forty-fourth Congress a bill passed the House of Representatives to correct Lieutenant Chickering's Army record, this with a view to his reinstatement; but Senator Cockrell, of your committee, reported adversely upon the same, not upon the merits of the case, but because the bill, by its terms, was in antagonism with the law of promotion. The bill now under consideration is not open to the same objection, and is judged upon its merits alone.

The testimony, *ex parte*, shows Lieutenant Chickering's habits to have been uniformly temperate and sober. Attention is directed to the letter of Capt. John A. Irwin, Sixth Cavalry, and the captain of the company to which Lieutenant Chickering belonged, who certifies to his good char-

acter and gallantry, especially commending his demeanor and daring in a charge made by his battalion on the occasion of a desperate fight with the Arapahoe, Kiowa, and Comanche Indians.

There is another important point involved in this case to which reference should be made. This officer was arraigned upon the charge of being "drunk on duty," in violation of the forty-fifth article of war, now known as the thirty-eighth article of war, which reads as follows:

ART. 38. Any officer who is found drunk on his guard, party, or other duty, shall be dismissed from the service. Any soldier who so offends shall suffer such corporal punishment as a court-martial may direct.

To make an officer liable to dismissal under this article, it must appear that he *was so on duty*. The evidence in this case fails, in the opinion of your committee, to show that fact, unless it could be *technically* so considered. The violation of this article of war could not have occurred technically; it must have been positive and direct in order to have brought the accused within its provision. The following is the report of the House Committee on Military Affairs of the Forty-fourth Congress, by which it will be observed and noted that the House committee examined this case with the same conclusions as those arrived at by your committee:

The Committee on Military Affairs, to whom was referred the bill (H. R. 1909) for the relief of John W. Chickering, having duly considered the same, ask leave to submit the following report:

This is a bill to amend an Army officer's record. From the record furnished from the War Department, it appears that this officer was tried by court-martial in December, 1874, and sentenced to be cashiered. The court consisted of but five members, the minimum allowed by law, three of whom afterward recommended Chickering to the clemency of the reviewing officer.

Your committee have examined the evidence, and find the same to be contradictory, and the weight of evidence seems to be in favor of the officer. The main question involved was whether or not the officer was on duty, and at best he could only be considered technically so.

Lieutenant Chickering has been in continuous service from the commencement of the late war, and his meritorious services are fully attested by Generals Sheridan, Stanley, Elliott, Kimball, and others. No such charge was ever brought against him before, and under all the circumstances the punishment is severe and excessive.

This bill requires no back pay for services not performed, and merely restores the officer after a suspension from rank and pay for a period of over one year. They therefore report back the bill, and recommend its passage.

The record is voluminous, and the questions involved are important. Your committee, therefore, are of opinion that this is an exceptional case, that Lieutenant Chickering is entitled, both legally and equitably, to the relief he seeks, and therefore recommend the passage of the bill.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 149.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

Mr. ANTHONY, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill S. 286.]

The Committee on Naval Affairs, to whom was referred the bill (S. 286) for the relief of John S. Cunningham, a pay-director in the Navy, having considered the same, make the following report:

The memorialist is a pay-director in the Navy. He has been many years in the service, and has disbursed many millions of dollars, and his accounts, as appears by the certificates of the accounting-officers of the Treasury, have been kept with remarkable clearness and accuracy, and have been rendered with unvarying promptness, having been always settled promptly to a cent.

He was stationed at the Navy pay-office, San Francisco, Cal., where he made it a rule not to permit any money to be drawn from the Treasury for the use of his office, but paid every bill, however small in amount, by check on the sub-treasury. He had invented a system of recording a history of bills and payments in a book, which is highly commended by the Fourth Auditor as a security against fraud. He was accustomed to draw his checks payable to order, but the assistant treasurer at San Francisco refused payment of them, and required him to make them payable to bearer. In accordance with this requirement he drew three checks, one for $720, to pay a bill of the California Cracker Company; one for $361.72, to pay a bill of Whittier, Fuller & Co.; and one for $202.47, to pay a bill of James E. Jordan; in all, $1,284.19, which were entrusted to Franklin Philp, his clerk, a sworn officer, approved by the Navy Department, and who embezzled them and applied the proceeds to his own use. Immediately on discovering the embezzlement Captain Cunningham deposited of his own funds the amount of the checks in the United States Treasury, and obtained therefor transfer drafts on San Francisco, which he at once forwarded to the parties for whom the embezzled checks were intended. The clerk absconded, and is wholly irresponsible.

Whatever are the objections to indemnifying disbursing-officers for losses inflicted upon them by their subordinates, they can hardly apply when the loss is occasioned by a compulsory mode of drawing the checks against which the officer protested, and when, if he had been permitted to draw them in the mode which he attempted for the greater security of the government, the loss would not have occurred. It appears that the loss was caused by no fault or neglect of the memorialist, but by the requirement of the Treasury officers that the check should be made payable to bearer.

The committee recommend the passage of the bill.

O

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 150.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

LOGAN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 214.]

e Committee on Military Affairs, to whom was referred the bill (S. 214) for the relief of Robert W. Dunbar, of Curry County, Oregon, have had he same under consideration, and submit the following report:

This is a bill to refer for adjudication to the Court of Claims a claim damages arising out of an alleged breach of contract between Robert . Dunbar, of Curry County, Oregon, and the United States, the record d showing the following facts:

It appears from the record that the military post of Fort Orford, Oreg., s broken up in 1856, and in October of that year Mr. Dunbar was apinted to take charge of the buildings, grounds, and property of the nited States connected with said fort. He continued in charge of the t from the date of his appointment to April 26, 1860, at which time, induce him to continue in charge, and in consideration thereof, and enable him to make the necessary improvements and business arrangents for that purpose, a contract in writing in relation to the same was tered into between the United States, represented by Col. Thomas vords, deputy quartermaster-general, U. S. A., who had been authord by the Secretary of War to make such contract, and the claimant, unbar. Said contract is in the following words, viz:

Know all men by these presents that I, Lieut. Colonel Thomas Swords, deputy quarmaster-general and chief of the quartermaster's department, United States Army, the Department of California, by virtue of authority vested in me by the Secretary War, have made, constituted, and appointed, and by these presents do make, contute, and appoint, R. W. Dunbar, of Port Orford, State of Oregon, an agent of the tartermaster's Department, for the purpose of taking charge and holding possession the military reservation and buildings thereon known as Fort Orford, in the State Oregon; that he is to have exclusive control of the same, subject to the orders of self and my successors in office; and that in consideration thereof he is permitted occupy, by himself or others, such portion of, and to make such repairs and improvents to, the premises aforesaid as he may think fit, without endangering or damaging y part or portion of them.

The appointment to continue in force for and during the term of ten years, and after e first day of May, A. D. eighteen hundred and sixty, without the premises should, eviously to that time, he required for military use, or it should be deemed advisable sell them, in which event this appointment is to cease, and he is to vacate and surder the premises, together with such improvements as he may have made, on the ler of the military commander of California, or of such other military department Fort Orford may at the time be included; it being distinctly understood that he is

not, by virtue of occupancy, possession, or the improvements he may make, to advanc for himself, his heirs, or successors any claim to the ground or premises.

In witness whereof I have hereunto set my hand and seal, at San Francisco, Cal fornia, this twenty-first day of April, eighteen hundred and sixty.

THOMAS SWORDS, [SEAL
Dept. Q. M. Gen., Lt. Col., U. S. A

In presence of—
D. FERGUSON.

I hereby accept the appointment aforesaid on the conditions therein stated.

Signed and sealed at San Francisco, Cal., the 26th day of April, A. D. eight hundred and sixty.

R. W. DUNBAR. [SEAL

In the presence of—
D. FERGUSON.
RICH'D D. BLAUVELT, Jr.

By this contract it would appear that Fort Orford was demised a leased to the claimant for a period of ten years from and after the 2 day of April, 1860, contingent upon the same being needed for *milit purposes, or the United States should determine to sell the same.*

Upon the faith of this contract it appears the claimant built one n house at the fort; put a new roof on another; put up shelving, ceilin and fixtures for a large store-room, and built a new fence about the pre ises. These improvements, it is alleged, cost the claimant $1,000. T claimant also made arrangements to carry on a large mercantile busine at the fort, purchased a large stock of goods, and was doing a go business, when, as alleged, in violation of said contract, he was requir to surrender and quit the premises—this by order of the Secretary War, on the 22d day of May, 1862. In compliance with this order t claimant did surrender and quit said premises on that day.

These buildings, it is further insisted, were not required for *milita purposes*, nor did the United States *desire to sell them* at *the time of Du bar's ejectment*, for it appears they were turned over to the *collector customs at Port Oxford*, for the use of the *Treasury Department*, as t following correspondence shows:

TREASURY DEPARTMENT, *March* 24, 186

SIR: I have the honor to transmit herewith a copy of a letter from the collecto customs at Port Orford, Oregon, concerning an order issued by General Wright, c manding the Department of the Pacific, depriving him of the use of the governm buildings for custom-house purposes, which he had before been allowed by Gen Sumner, when in command there, to his great inconvenience and the insecurity of custom-house property.

If the said buildings are not actually needed for military purposes, and the collec can be allowed to occupy them for the service of the customs (or such portion of th as he may need), it will be a convenience to the public business; and if there is no jection to such occupancy, I will thank you to so instruct the commanding office that department.

I am, very respectfully, your obedient servant,

S. P. CHASE,
Secretary of the Treasur

Hon. E. M. STANTON,
Secretary of War.

WAR DEPARTMENT, *March* 26, 186

Referred to Adjutant-General, with instructions to give the order requested by Secretary of the Treasury, if it can be done without endangering the military secu of the post.

By order of the Secretary of War:

P. H. WATSON,
Assistant Secretary of W

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, April 2, 1862.

Brig. Gen. GEORGE WRIGHT,
U. S. Vols., Comdg. Dept. of the Pacific, San Francisco, Cal.:

SIR: By direction of the Secretary of War, I inclose herewith copies of letters from the Secretary of the Treasury and the collector at Port Orford, dated March 24, 1862, and June 24, 1861, in relation to the occupancy of certain public buildings at Port Orford. The Secretary of War directs that you comply with the request of the Secretary of the Treasury, if it can be done without endangering the military security of the post.

I am, sir, very respectfully, your obedient servant,

L. THOMAS,
Adjutant-General.

HEADQUARTERS DEPARTMENT OF THE PACIFIC,
San Francisco, May 7, 1862.

GENERAL: I have the honor to acknowledge the receipt of your communication of the 2d ultimo, with copies of letters from the Secretary of the Treasury and collector of Port Orford, dated March 24, 1862, and June 24, 1861.

The letter of the collector should have been dated in December, 1861, or later, as my decision in the matter referred to was made on the 26th of November, 1861.

The subject referred to was submitted to me in November last, soon after I relieved General Summer in command of this department.

I found on examination that Lieut. Col. Thomas Swords, deputy quartermaster-general, and chief of the quartermaster's department in the Department of California, had, "by virtue of authority vested in him by the Secretary of War," appointed Mr. R. W. Dunbar as agent of the Quartermaster's Department to take charge of the military reservation, and buildings thereon, known as Fort Orford.

The appointment was to continue in force for the term of ten years from the 1st of May, 1860, "without the premises should previously to that time be required for military use, or it should be deemed advisable to sell them, in which event the appointment was to cease."

I referred the whole subject to Lieut. Col. E. B. Babbitt, my chief quartermaster, for a careful investigation, and his reply, which is herewith inclosed, determined me in directing that the arrangements made by Lieut. Col. Swords with Mr. Dunbar should remain in full force, and I accordingly directed my assistant adjutant-general to address Lieutenant-Colonel Babbitt a letter on the 26th of November, which is herewith inclosed.

The directions of the Secretary of War have this day been complied with.

Very respectfully, your obedient servant,

GEO. WRIGHT,
Brigadier-General, U. S. A., Commanding.

Brig. Gen. L. THOMAS,
Adjutant-General U. S. A. Washington, D. C.

These buildings, it appears, have never since been used for military purposes, nor have the same been sold since Dunbar's ejectment.

As a conclusion of fact, there can be no doubt that there was a breach of this contract with Dunbar on the part of the United States, and it would seem to be a proper case for the Court of Claims, to determine the loss and danger to the claimant, if any, by reason thereof.

It further appears affirmatively in the record that on the 5th of February, 1866, the claimant's petition for relief was presented to the United States Senate, and on the 2d of March following the Committee on Claims reported it back to the Senate, and asked to be discharged from consideration of the case, upon the specific ground that it was a proper case for the Court of Claims. (See Senate Journal, first session, Thirty-ninth Congress, page 133.)

By the claimant's affidavit, he shows that he employed Judge R. E. Stratton, of Washington, D. C., to attend to his case, and that Judge Stratton died in 1867, before suit was instituted in the Court of Claims. Before the claimant could learn the condition of his case, after his attorney's death, the statute of limitation—six years from the time has right of action accrued—had barred his right of suit in the Court of Claims.

Since that time claimant alleges he has made many efforts to get case properly before the Court of Claims, but failed by reason of ne gence of various attorneys whom he employed to get his suit institu in that court until October 11, 1871. His case is now before that co and the evidence has all been taken and printed in support of the sa but the record shows that the Attorney-General has filed thereto plea of limitation.

It appears that the claimant has been guilty of such *laches* in matter as ought to bar the prosecution of his claim. The Governm of the United States is certainly not to be held responsible for his getting proper attorneys, or for the negligence of attorneys. The c being open to him for the period of six years, it does not seem to l case of such hardship as would authorize the interposition of Congr The committee ask to be discharged from the further consideratio the case, and that the bill be indefinitely postponed.

O

ɔTH CONGRESS, 2d Session. | SENATE. | REPORT No. 151.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

r. LOGAN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 223.]

The Committee on Military Affairs, to whom was referred Senate bill 23, "to authorize the restoration of Calvin T. Speer to the rank of sec- nd lieutenant, United States Army, and to pay him arrears of pay, his ne," submit the following communication from the Adjutant-General, nd adopt the same as a report of the Committee:

WAR DEPARTMENT,
Adjutant General's Office, June 12, 1878.

ne Hon. SECRETARY OF WAR:

SIR: I have the honor to return herewith the communication of Hon. George E. encer, chairman Committee on Military Affairs, United States Senate, of the 29th timo, inclosing a bill (S. 1170) "To authorize the restoration of Calvin T. Speer to e rank of second lieutenant, United States Army," and allowing him pay as captain fth United States Colored Troops, from August 21, 1864, to April 29, 1865.

Calvin T. Speer was mustered in as first lieutenant, Fourth New Jersey Volunteers, gust 13, 1861, and was discharged, by resignation, September 12, 1862. He was stered in as first lieutenant, Fifth United States Colored Troops, to date August 25, 63, at Camp Delaware, Ohio, and was promoted captain, January 15, 1864, and then oceeded with his company to the field in Department of Virginia and North Caro- na. March 28, 1864, he was placed in arrest by his regimental commander (the son given being bad conduct before the enemy). April 21, 1864, he was granted days' leave, which was, on June 27, 1864, extended 20 days, by department com- nder, on certificate of disability. July 9, 1864, the order granting the extension s revoked by the department commander, and he was ordered to return and report General Butler, commanding department.

An investigation of his case was subsequently had, which resulted in his dismissal, order of General Butler, August 21, 1864. [Copy of order of dismissal with accom- nying papers.] The dismissal was subsequently confirmed by the President and nounced in orders from the War Department April 29, 1865; copy herewith.

June 25, 1867, Mr. Speer enlisted as a private in the Second United States Infantry, nd in August, 1867, was appointed second lieutenant in the Eighth United States nfantry; became unassigned, on reduction of the Army, in May, 1869; assigned to e Eleventh United States Infantry January 1, 1871, and was dismissed, by sentence court-martial, January 16, 1874.

The records indicate that his appointment as second lieutenant, in 1867, was made ithout reference to or knowledge of his previous history in the colored troops.

Copy of record of trial and of a number of reports and documents bearing upon Mr. peer's claim for restoration have been furnished by the Judge-Advocate-General, and re herewith.

The claim of Mr. Speer for pay as captain Fifth United States Colored Troops, from ugust 21, 1864, the date his dismissal took effect, to April 29, 1865, the date his dis- issal was confirmed by the President, would appear to have been rejected by the ccounting officers of the Treasury upon the record fact that he performed no duty s an officer after August 21, 1864.

I am, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

[GENERAL COURT-MARTIAL ORDERS NO. 3.]

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, January 16, 1874.

I. Before a general court-martial which convened at Fort McKavett, Texas, December 8, 1873, pursuant to Special Orders No. 218, Headquarters Department of Texas, San Antonio, Texas, November 29, 1873, and of which Col. Henry B. Clitz, Tenth Infantry, is president, was arraigned and tried—

Second Lieut. Calvin T. Speer, Eleventh Infantry.

Charge: "Conduct unbecoming an officer and a gentleman."

Specification 1st—"In this: that he, Second Lieut. Calvin T. Speer, Eleventh Infantry, did sign and forward, or cause to be forwarded, to the Adjutant-General of the Army a statement of volunteer organizations in which he, Lieutenant Speer, rendered service as an officer during the rebellion, dated June 4, 1872, in which he (Lieutenant Speer) reported himself, in the column of remarks, under the heading 'Date and place of discharge and number of order, if any,' as having resigned his commission as captain Fifth United States Colored Troops April 16, 1865, which statement was false and known to be false by him, the said Lieutenant Speer, and made with intent to deceive the said Adjutant-General as to the manner in which his, Lieutenant Speer's, connection with the said corps, the Fifth United States Colored Troops had been dissolved, inasmuch as he, the said Lieutenant Speer, had never resigned as stated, and knew he did not leave the said corps by resigning therefrom, but by being dishonorably dismissed by Major-General Butler, subject to the approval of the President of the United States, in Special Orders No. 229, Headquarters Department of Virginia and North Carolina, in the field, dated August 21, 1864, which order was confirmed, by direction of the President of the United States, in Special Orders No. 194, paragraph 2, War Department, Adjutant-General's Office, April 29, 1865. This on or about the dates and at the places above specified."

Specification 2d—"In this: that he, Second Lieut. Calvin T. Speer, Eleventh Infantry, having received a communication from the Adjutant-General of the Army dated War Department, Adjutant-General's Office, May 15, 1873, which called his (Lieutenant Speer's) attention to the fact that in his (Lieutenant Speer's) communication dated June 4, 1872, containing a statement of the volunteer organizations in which he had served during the rebellion, he (Lieutenant Speer) stated that he had resigned from the Fifth United States Colored Troops April 16, 1865, and informed him (Lieutenant Speer) that the records of the War Department, Adjutant-General's Office, did not furnish any evidence of his resignation, and directed him (Lieutenant Speer) to forward without delay definite information as to the acceptance of his alleged resignation or other explanation of the statement, did, in an indorsement in reply thereto, dated Fort Griffin, Texas, June 4, 1873, again assert in effect, and without qualification, that he resigned from the Fifth United States Colored Troops, which assertion was false, and calculated and made with intent to deceive the said Adjutant-General of the Army as to the manner in which his connection with said corps had been dissolved, inasmuch as he (the said Lieutenant Speer) had never regularly resigned his commission in the aforesaid corps, but had, within his (Lieutenant Speer's) own knowledge, been summarily dismissed therefrom by Major-General B. F. Butler, United States Volunteers, subject to the approval of the President of the United States, in Special Orders No. 229, Headquarters Department of Virginia and North Carolina, dated in the field, August 21, 1864, which order of dismissal was confirmed, by direction of the President of the United States, in Special Orders No. 194, paragraph 2, War Department, Adjutant-General's Office, April 29, 1865. This on or about the dates and at the places above specified."

To which charge and specifications the accused, Second Lieut. Calvin T. Speer, Eleventh Infantry, pleaded as follows:

To the first specification, "Guilty, except of the words 'which statement was false and known to be false by him, the said Lieutenant Speer, and made with intent to deceive the said Adjutant-General as to the manner in which his, Lieutenant Speer's, connection with the said corps, the Fifth United States Colored Troops, had been dissolved, inasmuch as he, the said Lieutenant Speer, had never resigned, as stated, and knew he did not leave the said corps by resigning therefrom, but by being dishonorably dismissed by Major-General Butler, subject to the approval of the President of the United States, in Special Orders No. 229, Headquarters Department of Virginia and North Carolina, in the field, dated August 21, 1864, which order was confirmed by direction of the President of the United States, in Special Orders No. 194, paragraph 2, War Department, Adjutant-General's Office, April 29, 1865.'"

To the second specification, "Guilty, except the words 'which assertion was false, and calculated and made with intent to deceive the said Adjutant-General of the

my as to the manner in which his connection with the said corps had been dis-
ved, inasmuch as he, the said Lieutenant Speer, had never regularly resigned his
mmission in the aforesaid corps, but had, within his (Lieutenant Speer's) own knowl-
ge, been summarily dismissed therefrom by Maj. Gen. B. F. Butler, United States
lunteers, subject to the approval of the President of the United States, in Special
ders No. 229, Headquarters Department of Virginia and North Carolina, dated in
e field August 21, 1864, which order of dismissal was confirmed by direction of the
esident of the United States, in Special Orders No. 194, paragraph 2, War Depart-
nt, Adjutant-General's Office, April 29, 1865.'"
To the charge, "Not guilty."

FINDING.

The court, having maturely considered the evidence adduced, finds the accused,
cond Lieut. Calvin T. Speer, Eleventh Infantry, as follows:
Of the first specification, "Guilty."
Of the second specification, "Guilty."
Of the charge, "Guilty."

SENTENCE.

And the court does therefore sentence him, Second Lieut. Calvin T. Speer, Eleventh
fantry, "To be dismissed the service."

II. In conformity with the 65th of the Rules and Articles of War, the proceedings
the general court-martial in the foregoing case of Second Lieut. Calvin T. Speer,
eventh Infantry, have been forwarded to the Secretary of War for the action of the
esident of the United States, and the proceedings, findings, and sentence are ap-
oved.
III. Second Lieut. Calvin T. Speer, Eleventh Infantry, ceases to be an officer of the
my from the date of this order.
By order of the Secretary of War:

E. D. TOWNSEND,
Adjutant-General.

Official:
SAMUEL BRECK,
Assistant Adjutant-General.

'H CONGRESS, 2d Session. } SENATE. { REPORT No. 152.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1880.—Ordered to be printed.

LOGAN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 536.]

Committee on Military Affairs, to whom was referred the bill (S. 533) roviding for the retirement of First Lieut. Walter F. Halleck with the ank and pay of lieutenant-colonel, beg leave to report:

'hat they have carefully examined the papers in connection with the im of Lieutenant Halleck and find that he was a meritorious officer, l while engaged in action at Stone River, on the 31st of December, D. 1862, was wounded in the left cheek and also lost his left eye; it on account of said wounds he was retired from active service upon rank of first lieutenant on the 29th day of September, A. D. 1868, rank then held by him being the highest rank ever held by him in United States service.

Ie now asks to be retired by act of Congress upon the rank of lieuten-t-colonel, under the act of July 28, 1866, which authorized the retire-nt of officers for wounds received in battle upon the rank of the com-nd commanded by them at the time of receiving the wound or wounds; l claims that on the 16th day of July, 1864, at the city of Washing-, during the assault upon the city, he was detailed as field officer of day, and had under his control the number of troops necessary to re constituted the command of a lieutenant-colonel; that on that day, ile performing his duty as such field officer, his horse fell on and ished his right foot, and that this was not considered at the time of retirement by the board of officers who ordered his retirement, hough the act of July 28, 1866, was then in force.

Tour committee do not agree that the law of July 28, 1866, above erred to, includes such a case as this of Lieutenant Halleck. Lieuten-t Halleck, on the 16th day of July, 1864, from his own statement, ld only have been detailed as a staff officer in the performance of h staff duties as were imposed upon him; he was certainly not placed command of any organized company, battalion, regiment, brigade, ision, or corps, such as the committee understand the said act to ap-to. The act certainly did not contemplate a mere mass of men, frag-nts of different commands thrown together, not organized in any nner known to military order or regulation, and merely on account numbers accidentally thrown together, giving rank to officers thrown h them, in no wise connected with them in organization.

Tour committee are of the opinion that Lieutenant Halleck was re-d upon the highest rank that he was entitled to under the law.

Tour committee therefore recommend the indefinite postponement of bill.

O

ITH CONGRESS, 2d Session. | SENATE. | REPORT No. 153.

IN THE SENATE OF THE UNITED STATES.

JANUARY 22, 1880.—Ordered to be printed.

. GROOME, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 996.]

he Committee on Claims, to whom was referred the bill (S. 996) for the relief of Monroe Donoho and certain papers relating thereto, have consid- the same, and report:

That a like bill was referred to the Committee on Claims in the last enate, who made the following report thereon:

The claimant was register of the United States land-office at Tuscaloosa, in the tate of Alabama, until the 28th February, 1861, and it appears from an account tated by J. A. Williamson, Commissioner of Public Lands, on the 3d day of May, 1877, hat the government was indebted to the claimant on account of salary and commis- ons in the sum of $169.45, which amount the Commissioner recommends be paid to im.

The committee report the bill back with the recommendation that it pass.

This committee, after a careful re-examination of the case, adopt that eport as their own.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 154.

IN THE SENATE OF THE UNITED STATES.

JANUARY 22, 1880.—Ordered to be printed.

Mr. GROOME, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 715.]

The Committee on Claims, to whom was referred the bill (S. 715) for the relief of N. Boyden, have considered the same, and find the facts as stated in the report of the Senate Committee on Claims in the 45th Congress, being Report No. 78. This committee concur in that report, and report back the bill referred to them (which is identical with the substitute mentioned in said report), with a recommendation that it pass. The report concurred in by this committee is as follows:

Mr. COCKRELL, from the Committee on Claims, submitted the following report, to accompany bill S. 685:

The Committee on Claims, to which was referred the bill (S. 33) for the relief of R. W. Corbin and others, have duly considered the same, so far as the rights of Mr. Boyden are affected, and submit the following report:

Your committee referred the bill to the Secretary of the Treasury, with a letter asking for information and facts touching the claim, and received from the Acting Secretary the following answer:

TREASURY DEPARTMENT, *November* 1, 1877.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th ultimo, inclosing a copy of a bill for the relief of N. Boyden, for rent of a house, and calling for such information as may be in possession of this department touching the same.

The Third Auditor of the Treasury states that the claim of N. Boyden in his office for $75, being the amount of three vouchers issued to him by Lieut. H. C. Long, of the One hundred and twenty-eighth Indiana Volunteers, for rent of one house, used as post-headquarters from January 1 to March 31, 1866, at $25.

The claim was disallowed, under the provisions of act of Congress of February 21, 1867, which prohibits payment of this class of cases.

The bill is herewith returned, as requested.

Very respectfully,

R. C. McCORMICK,
Acting Secretary.

Hon. F. M. COCKRELL,
United States Senate.

Your committee addressed another letter to the Secretary of the Treasury, asking for the vouchers and papers relating to said claim of N. Boyden, and received from him all the vouchers and papers, and among them were the following accounts, to wit:

No. 22.

The United States to N. Boyden, Dr.

	Dolls.	Cts.
Salisbury, N. C., January 31, 1866. For rent of four (4) rooms, used as headquarters district Western North Carolina, by Col. J. Packard, from January 1, 1866, to January 31, 1866 (inclusive), one month, at twenty-five dollars per month	25	00

Approved:

JASPER PACKARD,
Colonel One hundred and twenty-eighth Indiana, Commanding District.

I certify that the above account is correct and just, that the services were rendere as stated, and that they were necessary for the public service, and has been entere on my report of persons and articles hired for the month of January, 1866, for the tim above charged.

H. C. LONG,
First Lieutenant and R. Q. M. One hundred and twenty-eighth Indiana, and A. A. Q. M., D. W. N. C

No. 22.

The United States to N. Boyden, Dr.

Dolla

Salisbury, N. C., March 31, 1866—For rent of one house used as post-headquarters from March 1, 1866, and March 31, 1866 (one month), at twenty-five (25) dollars per month 2

Approved:

JASPER PACKARD,
Colonel One hundred and twenty-eighth Indiana Vols., Commanding Po

I certify that the above account is correct and just; that the services were rend as stated, and that they were necessary for the public service, and have been accou for on my Form 2, for March, 1866.

H. C. LONG,
First Lieutenant and R. Q. M., One hundred and twenty-eighth Indiana Vols., and A. A. Q.

No. 22.

The United States to N. Boyden, Dr.

Dolla

Salisbury, N. C., February 28, 1866—For rent of one house (4 rooms) used as post-headquarters, Salisbury, N. C., from February 1, 1866, to February 28, 1866 (one month), at twenty-five dollars per month 2

Approved:

JASPER PACKARD,
Colonel One hundred aud twenty-eighth Indiana Vols.; Commanding Po

I certify that the above account is correct and just; that the services were rend as stated, and that they were necessary for the public service, and have been repo on my Form 2, for the month of February, 1866.

H. C. LONG,
First Lieutenant and R. Q. M., One hundred and twenty-eighth Indiana Vols., and A. A. Q.

The above accounts were on the usual blanks known as Form No. 22, partly pri and partly written. The action of the department upon said claim is shown by following letter among said papers, to wit:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
October 29, 187

Respectfully returned to the Hon. H. S. French, Assistant Secretary.

The claim of N. Boyden in this office is for $75, being the amount of three vouc issued to him by Lieut. H. C. Long, of the One hundred and twenty-eighth Indi Volunteers, for rent of one house used as post-headquarters from January 1 to M 31, 1866, at $25. The claim was disallowed under the provisions of act of Congre February 21, 1867, which prohibits payment of this class of claims. Papers in cl transmitted herewith.

HORACE AUSTIN, *Audito*

The Quartermaster-General's Department refused to pay the claim for the s reason.

That the act of February 21, 1867 (vol. 14, U. S. Stat. at L., p. 397), provides t the act of July 4, 1864, "shall not be construed to authorize the settlement of claim for supplies or stores taken or furnished for the use of or used by the armie the United States, nor for the occupation of or injury to real estate, nor for the c sumption, appropriation, or destruction of or damage to personal property by the m tary authorities or troops of the United States, where such claim originated during t war for the suppression of the Southern rebellion in a State or part of a State decla in insurrection by the proclamation of the President of the United States, dated J

ghteen hundred and sixty-two, or in a State which, by an ordinance of seces-
tempted to withdraw from the United States Government."
ril 2, 1866, the President, by proclamation, declared that the insurrection in
es of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama,
ia, Arkansas, and Mississippi was at an end.
said act of February 21, 1867, the departments have declined to pay any claims
ing in the insurrectionary States from the beginning of the insurrection to the
the President's proclamation declaring the insurrection at an end, whether
ims arose under contracts or otherwise. And thus all persons whose just
re based upon an express contract between themselves and the proper officers
overnment made within the limits of the insurrectionary States within the
bove named, are forced to appeal to Congress for relief.
aim arose out of a contract between the claimant and the proper quartermas-
duly signed, certified, and reported by said quartermaster, and approved by
nanding officer, and the estate of the claimant is certainly entitled to the
specified in the contract.
ommittee report a substitute for the bill, and recommend the passage of the
e so reported.

O

6TH CONGRESS, 2d Session. | SENATE. | REPORT No. 155.

IN THE SENATE OF THE UNITED STATES.

JANUARY 26, 1880.—Ordered to be printed.

r. TELLER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 33.]

he Committee on Claims, to whom was referred the bill (S. 33) for the relief of Joseph R. Shannon, having considered the same, make the following report:

The claimant, Joseph R. Shannon, petitions Congress to pay him the alue of a steamboat (A. W. Quarrier) impressed by General Butler, hile in command of Federal troops at New Orleans, in the spring of 862. There is some conflict of testimony as to the exact time of the npressment, but not more than might be expected where witnesses rely a their recollection of the date. The claimant was a citizen of Misouri, and at all times loyal to the government, but was, at the time of ie capture of New Orleans, in the vicinity of that city with the boat nd other property of like character.

The A. W. Quarrier was, before the war, used as a passenger boat, nning between White River and the city of New Orleans, but at the me of the commencement of the war was lying at the wharf in New rleans. Subsequently she plied between Red River and New Orleans. he claimant also owned the Burton, and Sallie Robinson, which were oth seized by the Confederate Government, and subsequently taken by ie United States forces. The Burton was snagged and sunk while being sed by the government, and was subsequently paid for by the United tates. The Sallie Robinson was recovered from the United States by laimant by proceedings in the court at New Orleans.

It appears from the evidence that the claimant was the owner of the oat by purchase, and had been such owner for several years. The laimant does not produce any written evidence of title, but the proof entirely satisfactory (and was so admitted by the Treasury Departient) of the ownership of the boat by claimant. (The reason given for on-production of title papers is that they were destroyed during the ar.)

The facts may be briefly stated to be as follows: In the latter part of ay or June, 1862, General Butler impressed the boat and sent it up the ver under a flag of truce. One great object of the expedition appears have been to obtain a large amount of gold taken from the New Orans banks and secreted within the lines of the Confederacy. The agent the banks, whose affidavit is on file, went on the boat to Alexandria, d returned by other means with the gold; the captain and crew were zed and imprisoned as spies; the boat taken by the Confederate Govment and dismantled; the machinery taken to Texas and used by the vis and Marion County Iron Works, then controlled by the Confeder- authorities. Afterward these works fell into the hands of the Gov-

ernment of the United States. Shannon made an effort to recover the machinery, which was then in the hands of one Hughs, who appears to have held it as an agent of the government. In this effort Shannon was unsuccessful, because Hughs proved that it was the property of the United States by capture from the Confederate Government. Then Shannon attempted to secure from the government the value of the boat After much delay, the Treasury Department decided that the owner was loyal, and that the boat had been impressed, as claimed by claimant, but that the boat was not in the insurrectionary district under the proper authority indicated by the joint resolution of December 23, 1869, nor in conformity with the law of the United States, and therefore rejected his claim as not cognizable in that department.

It is difficult to say just what is meant by this. Mr. Shannon had established his loyalty and the ownership of the boat to the satisfaction of the Treasury Department. The boat had not been seized by the government on account of misconduct of claimant, but because of the pressing necessity of the government at that time. It was the property of a loyal citizen within the United States at the time of the breaking out of hostilities. The boat remained there through no fault of claimant, but from necessity. When the government's authority was once more established over that portion of Louisiana, the claimant's rights were the same that they would have been if he had gone from Saint Louis to New Orleans after the capture of that city.

General Butler had authority to impress the boat if in his judgment it was a military necessity, and the liability of the government is the same whether it was wisely or foolishly done. (Court of Claims, vol. 2, p. 95; vol. 5, p. 542; vol. 7, p. 234; 13 Wallace, 336.)

The claimant, without fault on his part, lost his boat, which he had not forfeited to the government, and he is entitled to the value thereof. He brought the matter into the courts to obtain, if possible, what was left of the machinery of the boat, but was defeated because the government claimed title to it as captured Confederate property. He then resorted to the Treasury Department, but was informed that while the proof was satisfactory as to his loyalty, ownership of boat, &c., he did not fall within the resolution of 1869, nor the amendment of 1871, and therefore he could not have redress in that department, but must go to Congress, which he did some three years since. It is difficult to determine what the value of the boat so impressed was, and the evidence is conflicting on that part. It is doubtless conflicting because of the fact that the boat at the time of its purchase by the claimant was not in first-class condition, and was subsequently repaired at great expense. Some of the witnesses may speak of the boat as it was before the repairs and some after the repairs.

All of the witnesses, save one, place the value of the boat at not less than $50,000, and several of them much higher than that. The Third Auditor, after a careful examination of the evidence and the value of boats of like character and dimensions paid for by the government, fixes the value of the boat at the time of the impressment at a little more than $48,000. As the value of the boat must be ascertained by the testimony taken at that time, and from the testimony the Auditor would have been justified in finding the value much greater than he did, and as but one witness out of eight testify to a value below $50,000, your committee think the amount found by the Auditor is not excessive, and therefore recommend that $48,000 be paid to Mr. Shannon, and therefore recommend the passage of the accompanying bill as substitute for Senate bill No. 33.

IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1880.—Ordered to be printed.

LLER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 33.]

mmittee on Claims, to whom was referred the bill (S. 33) for the ief of Joseph R. Shannon, make this as an additional report:

ıe 26th of January, 1880, the Committee on Claims, to whom had ferred Senate bill No. 33, for the relief of Joseph R. Shannon, re- the same to the Senate, with an amendment, and recommended sage thereof. The bill being before the Senate was considered, ommitted to the committee. While the recommittal was without n, yet it was evident that such committal was to enable the tee to report whether the claimant could not have presented his the Southern Claims Commission; whether he did so present it or d if he did not, what excuse the claimant had for such neglect. se was cognizable by said Southern Claims Commission, which ated by act of March 3, 1871, to continue for two years. It thus that the claimant might at any time between the 3d day of 1871, and the 3d day of March, 1873, have had his claim ed by said commission, and if he had done so would doubt- ı the facts before the committee, have recovered the value oat; but the records of the commission disclose the fact that he so apply. We must now consider the circumstances of the case, ermine whether the claimant has a valid excuse for such neglect as le him to now call on Congress by special action to recompense the damage he sustained by such impressment of his boat. It that the Confederate authorities dismantled and destroyed the the boat, but took the machinery, which was very valuable, to where it was captured by the government and put in the hands Reese Hughes. As soon as the United States courts were opened ness in Texas, the claimant brought suit against Hughes for the y of the machinery of the boat. On the trial of the cause, Hughes that he held the property for the United States, and the claim- defeated. Thereupon Shannon petitioned the War Department recovery of the engine, boiler, and other machinery then in the on of the United States. On the 13th day of January, 1871, master J. D. Bingham referred the matter to M. C. Meigs, Quar- er-General, and on the same date notified Mr. Shannon, as follows:

JANUARY 13, 1871.

PH R. SHANNON,
Washington, D. C.:

pplication for recovery of certain machinery alleged to have been captured ited States forces and now improperly held by Reese Hughes, of Davis County,

Texas, has been referred to the Quartermaster-General, who decides as follows, viz: This case is one to be settled under the laws relating to captured and abandoned property, and the Quartermaster's Department has no power in the premises. Application should be made to the Treasury Department by claimant.

By order of the Quartermaster-General.

Very respectfully, your obedient servant,

J. D. BINGHAM,
Quartermaster, U. S. A.

General Meigs indorsed on the paper submitting the case to him the following:

This case is one to be settled apparently under the law relating to captured and abandoned property, and the Quartermaster's Department has no power in the premises. Application should be made to the Treasury Department by the claimant.

M. C. MEIGS,
Quartermaster-General.

JANUARY 13, 1871.

At this time the Southern Claims Commission was not in existence and claimant could not maintain his case in the Court of Claims, and was without redress, unless it was in the Treasury Department. (See act July 4, 1864, vol. 15, Statutes at Large, page 381.)

Acting under the advice of Quartermaster-General Meigs, Mr. Shannon applied to the Treasury Department for relief under act of March 3 1849. This application the Treasury Department entertained, and Mr Shannon furnished evidence as to his loyalty, impressment and loss of his boat, as well as the value thereof. The whole subject was carefully examined by the Auditor, and on the 6th day of April, 1874, he decided that the boat had been impressed as Shannon alleged; that it had been destroyed by the Confederate authorities while in the military service of the government; that the value of the boat was $48,333.32; that claimant was a loyal citizen, but that the department could not allow the claim. It is not at all strange that after the declaration of the Quartermaster-General, that the Treasury Department could grant the relief sought, and as the Treasury Department entertained jurisdiction of the case, that Shannon should rest under the belief that he had his case before the proper tribunal. He had gone there before the creation of the Southern Claims Commission, and he had every reason to suppose that his case would be disposed of in that department if his evidence was satisfactory, and when the case was reported adversely by the Auditor it was too late to go before the Southern Claims Commission. The report of the Third Auditor, disallowing Mr. Shannon's claim, was approved by the Comptroller, and subsequently Mr. Shannon applied for a re-examination of the case, which was refused.

The case presented is a strong one, as to all the facts alleged by Shannon. He lost his boat, and has for many years sought to recover the value thereof. At the time he went to the Treasury Department for relief, he could go nowhere else; if relief could not be had there he was without redress except by an appeal to Congress. There was every reason to believe that under the second and third sections of the act of March 3, 1849 (vol. 9, Statutes at Large, p. 415), the Third Auditor had jurisdiction of this case, and it is not strange that Shannon did rest under that belief until too late to go into the Southern Claims Commission. A loyal citizen has lost his property, impressed by the government for its use, and destroyed while in the possession of the government, and we think he is entitled to recover, although he may, through ignorance of the law, have failed to go before the tribunal created to adjudicate this class of claims. We think the case an exceptional one, and therefore recommend that the bill do pass.

O

CONGRESS, } SENATE. { REPORT
Session. } { No. 156.

IN THE SENATE OF THE UNITED STATES.

JANUARY 26, 1880.—Ordered to be printed.

ICDONALD, from the Committee on the Judiciary, submitted the following

REPORT:

'ommittee on the Judiciary, to whom was referred the following peti- s: The petition of Mrs. Virginia Taylor, executrix of Joseph Taylor, ased, praying that her claim against the government for captured perty be referred to the Court of Claims; petition of Alexander Don- , administrator of David Dunlap, deceased, praying compensation for 'ain tobacco alleged to have been captured by the United States military es during the late war; petition of David B. Tennant, praying com- sation for certain manufactured tobacco alleged to have been captured United States military forces during the late war, and the petition of itson, McGill & Company, praying compensation for captured manu- tured tobacco, report:

at in the opinion of this committee the prayer of the petitioners t not to be granted.

ur committee report adverse to the petitions, and ask that the con- ition of the same be indefinitely postponed.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 157.

IN THE SENATE OF THE UNITED STATES.

JANUARY 26, 1880.—Ordered to be printed.

Mr. McDONALD, from the Committee on the Judiciary, submitted the following

REPORT:

The Committee on the Judiciary, to whom was referred the petition of Sallie Yerger, Maggie J. Miller, et al., praying that their claim for payment for property taken by the government be referred to the Court of Claims, report:

That, in the opinion of the committee, the prayer of the petitioners ought not to be granted.

Your committee report the petition adversely, and ask that the consideration of the same be indefinitely postponed.

O

H CONGRESS, } SENATE. { REPORT
2d Session. } { No. 158.

IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1880.—Ordered to be printed.

RANDOLPH, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1139.]

Committee on Military Affairs, to whom was referred the letter of the esident of June 5, 1879, transmitting the proceedings of the board con- ted by his orders on the case of General Porter, with all the documents the case, after full and careful consideration, submit the following port:

n the 10th day of January, 1863, Fitz-John Porter, colonel Fifteenth ntry, U. S. A., and major-general of volunteers, was sentenced by t-martial "to be cashiered and to be forever disqualified from hold- any office of trust or profit under the United States." President oln confirmed the sentence. General Porter made frequent appeals rehearing, on the ground that the findings and sentence of the t were contrary to evidence, and of new evidence, not accessible e trial, completely disproving the charges and specifications upon h said findings and sentence were based. President Lincoln be- e dissatisfied with his approval of the findings and sentence, as ars by the testimony, and declared his purpose to order a review of case.

resident Hayes appointed a military board of distinguished officers, Major-General Schofield, Brigadier-General Terry, and Colonel Getty, eview the court-martial recod, and to examine the new evidence h might be offered, and to report to the President what action jus- required of him in the matter. Upon full investigation the board rt that, in their opinion, "justice requires such action as may be ssary to annul and set aside the findings and sentence of the court- tial, and to restore him to the position of which that sentence de- ed him; such restoration to take effect from the date of his dismissal the service."

fter careful consideration this committee agree with the board in r opinion. As to the findings and sentence, the committee respect- r submit that their conclusion is sustained by jurists among the st at the American bar, who have examined the record and the ence, as they declare, impartially and attentively, viz, Judge B. R. is, Judge Abbott, Mr. Sidney Bartlett, of Boston, Charles O'Conor, iel Lord, and Judge Shipman, of New York, and by Mr. Montgomery r, who was a member of Mr. Lincoln's cabinet at the time. The com- e think it just and proper in this connection to consider that it was nly by loyal and zealous service in the late war that General Porter

has deserved well of his country, but also that he was thrice brevet for gallant services on the field of battle in Mexico; and now in appr ing the recommendation of the board of officers for his restoration to service, in which he exhibited such distinguished merit, the commi have satisfaction in two circumstances: that it would relieve from proach a name (even before he bore it) illustrious in our annals; a secondly, that as the charges against him were connected with charges against the officers and his men of his immediate command vindication will be a just and gratifying tribute to the gallant I Army Corps, which, as shown by the list of killed and wounded, bo conspicuous and distinguished a part in that campaign. The findi the board that "not one among the gallant soldiers on that bloody was less deserving of condemnation that General Porter," is, in judgment of the committee, alike just and honorable to him and t

The report of the board of officers contains, it is believed, all th essential to a correct understanding of the case, and it is appende this report as a part thereof.

Your committee also beg leave to report a bill for the relief of eral Porter, which is in general accordance with the recommendatio the board of officers reviewing his case. In view of the long delay has already been had in rendering justice to General Porter, of the and imperative duty of government to lose no time in making such aration as it may to a most faithful, brave, and loyal soldier, your mittee urge the prompt passage of the accompanying bill.

Report of the Board of Army Officers in the case of Fitz-John Porter.

NEW YORK CITY, *March* 19, 1

To the honorable the SECRETARY OF WAR, *Washington, D. C.:*

SIR: We, the Board of Officers appointed by order of the President to exami evidence in the case of Fitz-John Porter, late major-general of volunteers, and port, with the reasons for our conclusions, what action (if any), in our opinion, requires should be taken by the President on the application for relief in that have the honor to make the following report. The Recorder has been directed ward to the Adjutant-General of the Army the printed record of our proceedi cluding all the evidence examined and the arguments of counsel on either side.

We have made a very thorough examination of all the evidence presented and ing in any manner upon the merits of the case. The Recorder has, under instru from the board, sought with great diligence for evidence in addition to that pre by the petitioner, especially such as might appear to have a bearing adverse claims urged by him.

Due care has been exercised not to inquire into the military operations of the of Virginia, or the conduct of officers thereof, any further than has seemed nec to a full and fair elucidation of the subject submitted to us for investigation. O other hand, we have not hesitated to examine fully into all the facts, accurate k edge of which seemed to us to be necessary to the formation of a correct jud upon the merits of the case, and to the determination of the action which just quires should be taken by the President on the petitioner's application for relief.

We have had the benefit of the testimony of a large number of officers of th Confederate army, a kind of testimony which was not available at the time of Ge Porter's trial by court-martial. We have also availed ourselves of the testim many officers and soldiers of the Union forces who were present on the battle-fiel of much documentary evidence, to throw additional light upon points not mad fectly clear in the record of evidence taken before the court-martial; and we hav the use of accurate maps of the battle-field of Manassas, constructed from recent surveys made, under the direction of the Chief of Engineers, by a distinguished of of that corps, who was himself a participant in that battle.

Without such a map neither the testimony upon which General Porter was con nor the additional testimony submitted to this board could have been correctly stood.

The evidence which we have thus been able to examine, in addition to that was before the court-martial, has placed beyond question many important facts

ore the subjects of dispute, and in respect to some of which radically erroneous
, were entertained by General Porter's accusers, and doubtless by the court-
that pronounced him guilty.
sult has been, as we believe, to establish beyond reasonable doubt all the
ential to the formation of a correct judgment upon the merits of the case of
n Porter. We are thus enabled to report, with entire unanimity, and without
our own minds, with the reasons for our conclusions, what action, in our opinion,
equired should be taken by the President on the petitioner's application for

ridence presents itself under several distinct heads, viz:
The imperfect, and in some respects erroneous, statements of facts, due to the
nd incorrect knowledge in possession of witnesses at the time of the court-
and the extremely inaccurate maps and erroneous locations of troops thereon,
h erroneous statements were made to convey still more erroneous impressions.
l. The opinions and inferences of prominent officers based upon this imperfect
ge.
The far more complete and accurate statements of facts now made by a large
of eye-witnesses from both the contending forces.
i. The accurate maps of the field of operations and the exact positions of troops
at different periods of time, by which statements otherwise contradictory or
llable are shown to be harmonious, and opposing opinions are shown to have
ed upon different views of the same military situation; and,
y. The conflicting testimony relative to plans of operations, interpretation of
notives of action, and relative degrees of responsibility for unfortunate re-

ful consideration of all the material facts now fully established, in combina-
h the conflicting or inconclusive testimony last above referred to, gives rise to
liverse theories respecting the whole subject with which General Porter's case
rably connected. These diverse views of the subject necessarily involve, in a
r less degree, the acts, motives, and responsibilities of others as well as those
etitioner. We have considered with great care and labor, and with our best
each and all of these phases in which the subject can be and has been pre-
nd we find that all these possible views of the subject, when examined in the
the facts which are fully established by undisputed testimony, lead inevit-
one and the same conclusion in respect to the guilt or innocence of Fitz-John
f the specific charges upon which he was tried and pronounced guilty by the
rtial.
fore, while exposing General Porter's conduct to the test of the highest degree
nsibility which recognized military principles attached to the command he
ler the circumstances in which he was placed, and the orders which he had
, we are able to take that view of the whole subject which seems to involve
ast possible degree any question as to the acts, motives, or responsibility of

ill now proceed to give, as concisely as we are able to do, a narrative of the
which gave rise to the charges against Maj. Gen. Fitz-John Porter, omitting
itude of interesting but unessential details and all facts having no necessary
upon his case, and limiting ourselves to a plain statement of the essential
the case which have been established, as we believe, by positive proof.
the Army of the Potomac was withdrawing from its position on the James
August, 1862, the Army of Virginia, under Major-General Pope, was ordered
the line of the Rappahannock, and to stand on the defensive until all the forces
united behind that river. General Pope was given to understand that, when
centration was effected, Major-General Halleck, the General-in-Chief, was to
field in command of the combined armies. On the other hand, it appears that
eneral McClellan, then commanding the Army of the Potomac, was given to
nd that he was to direct the operations of all the forces in Virginia, as soon
should be united.
ears that General Pope was notified on the 25th of August that an active cam-
as soon to be commenced, without waiting for a union of all the forces, and
me commander other than either of those before named. But this information
to have been of a secret character, afterwards suppressed, and not made known
al McClellan and his subordinates until five days later, when the order ap-
rom the War Department, depriving McClellan of the command of all his troops
ween the Potomac and the Rappahannock, although leaving him in nominal
d of the Army of the Potomac.
General Porter, who joined General Pope's army about that time, was left
e impression, which all had previously shared, that the operations of the army
continue of a defensive character until all the forces should be united and
reparations made for the commencement of an offensive campaign under a
designated by the President to command the combined armies. But just then

the Confederate general, Jackson, with three divisions of infantry, one of cavalr some artillery, commenced his movement to turn the Union right through The fare Gap, which gap he passed on the 25th, and that night struck the rear of the army at Bristoe and Manassas Junction. The next morning, August 27, the army changed front to the rear, and was ordered to move on Gainesville, Gre and Warrenton Junction.

General Porter, with his two divisions of the Fifth Corps, arrived at Wa Junction on the 27th, and there reported in person to General Pope. That al Hooker's division was engaged with the enemy at Bristoe Station; McDowell a were moving on Gainesville, and Heintzelman and Reno on Greenwich. Ba covering the rear below Warrenton Junction, and guarding the trains in the ment toward Manassas Junction. Porter was at first ordered to move towar wich upon the arrival of Banks at Warrenton Junction, but after Hooker's eng at Bristoe the following order was sent him, and he received it at 9.50 p. m.:

"HEADQUARTERS ARMY OF VIRGINIA,
"*Bristoe Station, August* 27, 1862—6.3

"Major-General F. J. PORTER, *Warrenton Junction:*

"GENERAL: The major-general commanding directs that you start at 1 o' night and come forward with your whole corps, or such part of it as is wit as to be here by daylight to-morrow morning. Hooker has had a very seve with the enemy, with a loss of about 300 killed and wounded. The enemy driven back, but is retiring along the railroad. We must drive him from and clear the country between that place and Gainesville, where McDow Morell has not joined you, send him word to push forward immediately; word to Banks to hurry forward with all speed to take your place at Warrent tion. It is necessary on all accounts that you should be here by daylight. officer with this dispatch who will conduct you to this place. Be sure to s to Banks, who is on the road from Fayetteville, probably in the direction of Say to Banks, also, that he had best run back the railroad trains to this side Run. If he is not with you, write him to that effect.

"By command of General Pope.

"GEORGE D. RUGGLI
"*Colonel and Chief o*

"P. S.—If Banks is not at Warrenton Junction, leave a regiment of infantry pieces of artillery as a guard till he comes up, with instructions to follow you ately upon his doing so. If Banks is not at the Junction, instruct Colonel run the trains back to this side of Cedar Run, and post a regiment and a artillery with it.

"By command of General Pope.

"GEORGE D. RUGGLI
"*Colonel and Chief of*

This order plainly contemplated an aggressive movement against the ene on the 28th, and required the presence of General Porter's corps at Bristoe S early as possible in the morning, to take part in the pursuit of and attack enemy.

The order did not indicate any anticipation of defensive action at Bristoe the contrary, it indicated continuous, active, and aggressive operations du entire day of the 28th, to drive the enemy from Manassas, and clear the Hence the troops must arrive at Bristoe in condition for such service.

The evidence clearly shows that General Porter evinced an earnest desire t literally with the terms of the order, and that he held a consultation with his commanders, some of his brigade commanders, and his staff officers on the One of his divisions had arrived in camp late in the evening, after a long ma was much fatigued.

If the troops marched at 1 o'clock, none of them could have much sleep bef ing, and, even if they could arrive at Bristoe by or soon after daylight, they in poor condition for a vigorous pursuit of the enemy, who was already some beyond Bristoe. But this was not regarded by General Porter as sufficient r hesitating to make the attempt to comply literally with the order. He sti against the advice of his division commanders, the necessity of implicit ob Then, further consideration of the subject disclosed the fact that the road w with army trains, which had been pressing in that direction all day and as late at they could move, until the way had become completely blocked with wago trains of the army moving back from the line of the Rappahannock had been to take that road to the number of "two or three thousand." In the langua of the most intelligent witnesses, the mass of wagons blocked together at pla

"like a lot of ice that jams in on the shore." The night had become very
ıs testified by most of the witnesses, excessively dark. It would have been
› march troops upon a plain and unobstructed road. It was a manifest physi-
ıibility to march over that road that night, or to remove the obstructions in
ess of the night. When this situation was made evident, General Porter
y consented to delay the movement two hours, or until 3 o'clock. At that
narch was commenced, but it was found that no appreciable progress could
before daylight. Nothing was gained, or could have been gained, by the
› move before the dawn of day. It would have been wiser to have delayed
pt to move until 4 o'clock.
›us and persistent effort to make that march, commencing at 1 o'clock, could
resulted in greatly fatiguing the troops and throwing them into disorder,
h they could not have been extricated until long after daylight, without
ıy material progress, and would thus have caused the corps to arrive at Bris-
ter hour and in a miserable condition.
ıt experience in situations similar to that above described leaves no room
what General Porter's duty was. He exercised only the very ordinary dis-
a corps commander, which it was his plain duty to exercise, in delaying the
il 3 o'clock, and in his attempt to move at that time instead of at 4 o'clock
only too anxious a desire to comply with the *letter* of his orders.
der had contemplated, as has been represented, an attack by the enemy at
ıy, then it would have been General Porter's duty to start promptly, not at
›ut at the moment he received the order, so as to have brought at least some
of his infantry to Bristoe in time to aid in repelling that attack. That was
hat he could have done in any event, even by starting the moment the order
ed, and then his troops would have been in no condition for any aggressive
that day.
Porter reached Bristoe Station as soon as practicable with his corps on the
f the 28th, and there remained, under orders from his superior commander,
ıorning of the 29th, taking no part in the operations of the 28th.
›rning of the 28th, McDowell sent Ricketts' division of his corps to Thorough-
› resist the advance of re-enforcements from the main body of Lee's army,
n to be marching to join Jackson. Banks was at Warrenton Junction and
Bristoe. The rest of the army moved from Gainesville, Greenwich, and
Manassas Junction to attack Jackson at that place; but that general with-
forces during the night of the 27th and the morning of the 28th toward
l Groveton. He was followed by Heintzelman and Reno, via Centreville;
well and Sigel, after having marched some distance toward Manassas, were
direct their march toward Centreville. In this movement toward Centre-
's division of McDowell's corps struck the right of Jackson's force, late in
›on, just north of the Warrenton turnpike, a mile west of Groveton. A sharp
sued, lasting until some time after dark, when King still held his ground on
ke. Reynolds was then near the right of King, Sigel on his right near the
se, Heintzelman and Reno near Centreville; Ricketts, who had been sent in
ıg to Thoroughfare Gap, was disputing with Longstreet the passage of the

was still hoped to strike Jackson a decisive blow on the morning of the 29th,
›nforcements could reach him. In the mean time the Confederate general
up a favorable position a little to the north and west of Groveton and Sud-
it attack.
ıese conditions General Porter, who was still at Bristoe Station, received, at
e following order from General Pope:

"HEADQUARTERS ARMY OF VIRGINIA,
"*Near Bull Run, August* 29, 1862—3 a. m.

ıAL: McDowell had intercepted the retreat of Jackson. Sigel is immediately
ht of McDowell. Kearney and Hooker march to attack the enemy's rear at
n. Major-General Pope directs you to move upon Centreville, at the first
ay, with your whole command, leaving your trains to follow. It is very
that you should be here at a very early hour in the morning. A severe
ıt is likely to take place, and your presence is necessary.
ım, general, very respectfully, your obedient servant,

"GEORGE D. RUGGLES,
"*Colonel and Chief of Staff.*

General PORTER."

ıis order, General Porter marched promptly with his corps toward Centre-
had passed Manassas Junction with the head of his column, when he was
›ounter orders, issued in consequence of a grave change which had occurred
ation since the night before.

King had withdrawn from his position near Jackson's right, on the Warrent pike, and had fallen back to Manassas Junction. Ricketts had fallen bac night from Thoroughfare Gap to Gainesville, and thence, in consequence of th ment of King, had retired to Bristoe Station.

Thus the way had been left open for the retreat of Jackson to Thoroughfa or for the advance of Longstreet from that point, and ample time had elapsed to effect a junction, either at the Gap or near Groveton, before a force could interposed to prevent it. The opportunity to attack Jackson's detached fo superior numbers had passed beyond the possibility of recall.

As soon as the withdrawal of King became known to General Pope, he has a verbal message to General Porter to retrace his steps and move towards Gai and soon followed this message with the following order, which was received eral Porter about 9.30 a. m.:

"HEADQUARTERS ARMY OF VIRGIN
"*Centreville, August* 29

"Push forward with your corps and King's division, which you will take upon Gainesville. I am following the enemy down the Warrenton turnpike. peditious or we will lose much.

"JOHN POP
"*Major-General, Comma*

Under these orders General Porter advanced promptly with his corps, foll King's division, on the direct road from Manassas Junction toward Gainesville knowledge of the military situation as above described.

General Porter had met General McDowell near Manassas Junction, and t conversed with each other relative to this order, placing King's division under command. McDowell claims that it was conceded that he might go forward mand the whole force, under the 62d Article of War, but he desired to reunit divisions of his corps on that part of the field where Reynolds then was. I wrote to Pope on this subject, awaited his orders, and did not exercise any c over Porter's corps until after the receipt of further orders from Pope.

When, about 11.30 o'clock, the head of Porter's column arrived at Dawkins' about three and a half miles from Gainesville and nine and a half miles fr oughfare Gap, he met the enemy's cavalry advance, and captured some c street's scouts. The clouds of dust in his front and to his right, and extend toward Thoroughfare Gap, showed the enemy coming in force, and already on the field in his front.

Morell's division was at once deployed; Sykes closed up in support, King's following. A regiment was sent forward across the creek, as skirmishers, an field's brigade was started across the creek to the front, and somewhat to t with orders to seize, in advance of the enemy, if possible, the commanding g the opposite ridge, about a mile distant. Morell's division, with Sykes in supp ready to advance at once to the support of Butterfield.

At this stage of Porter's operations, some time between 11.30 and 12 o'clock, ell, in person, arrived on the field and arrested the movement Porter was saying to him in the hearing of several officers, "Porter, you are too far out. no place to fight a battle," or words to that effect.

McDowell had received, a few minutes before, a dispatch from Buford, i him that seventeen regiments of infantry, a battery, and some cavalry ha through Gainesville at 8.45 o'clock, and moved down the Centreville road Groveton, and hence must have been on the field in front of Sigel and Re least two hours.

The dust in Porter's immediate front and extending across toward Groveto as back toward Gainesville, showed that large forces of the enemy, in addition reported by Buford, were already on the field. The latest information from federate army showed the whole force of the enemy within reach of Gaines noon on the 29th. McDowell's troops (Ricketts' division and some cavalry) layed Longstreet's advance at Thoroughfare Gap from about noon until dar previous day, 28th. Hence, Lee's column had had eighteen hours by the mo the 29th to close up in mass near the Gap, and seven hours that morning in march eight miles and form line on the field of battle.

Jackson, who had been supposed anxious to retreat, and for whom the way left open, had not retreated, but was still holding his position of the previous as if confident of adequate reinforcements. Sigel's pursuit had been checked it started that morning, at Groveton.

It was certain that the head of column of Lee's main army had arrived on in front of Groveton at least two hours in advance of the arrival of the head of of Porter's and McDowell's corps at Dawkins' Branch, and it was so nearly that the main body of Lee's army was already on the field and in line of bat absolutely require corresponding action. This was Porter's impression at t

›yed it to McDowell by words and gesture that left no doubt in the mind that he (Porter) believed the enemy was in force in his immediate front.
; to this evident preparation of the enemy for battle, only Porter's nine or . men were ready for action, of the thirty-five thousand men then com-
›ft wing of the Union army.
ps, ten thousand, was still at Bristoe without orders to move beyond that
etts' division, eight thousand, was near Bristoe, under orders to move to
t his men were so worn out by constant marching, night and day, that
ot possibly be got to the field even for defensive action that day. King's
en thousand, was just in rear of Porter, but was so fatigued as to be unfit
action, and hardly able to march.
ong column, stretching back from Dawkins' Branch by way of Manassas
and even beyond Bristoe, had struck the right wing of the Confederate
of battle, while a gap of nearly two miles remained in the Union line be-
: and Reynolds, who was on the left of Sigel, near Groveton.
panying map, marked Board Map No. 1, illustrates the positions of the
; at noon of August 29th, and the probable positions of the Confederate
e same time, as indicated by the information then in possession of the
als. This map is not intended to show the actual positions of the troops
but to correctly interpret the information upon which the Union generals

he military situation on the Union left and Confederate right of the field
rell arrested Porter's advance, and Porter's operations under the direct
Pope heretofore mentioned ceased, and, under new orders just received,
ie subordinate to McDowell.
ad the effort to destroy Jackson before he could be reinforced totally
e Confederate army was on the field and in line, while the Union army
ie time to resume defensive action, awaiting the concentration of the army,
arrived, but had been too long postponed.
; to the front McDowell had received the following order from General
sed jointly to him and Porter, and Porter had received a copy of the same
ent before McDowell's arrival.

"[General Order No. 5.]

"HEADQUARTERS ARMY OF VIRGINIA,
"*Centreville, August* 29, 1862.

McDOWELL and PORTER: You will please move forward with your joint
›wards Gainesville. I sent General Porter written orders to that effect an
half ago. Heintzelman, Sigel, and Reno are moving on the Warrenton
l must now be not far from Gainesville. I desire that as soon as commu-
›tablished between this force and your own the whole command shall halt.
cessary to fall back behind Bull Run, at Centreville, to-night. I presume
on account of our supplies. I have sent no orders of any description to
l none to interfere in any way with the movements of McDowell's troops,
I sent by his aide-de-camp last night, which were to hold his position on
›n pike until the troops from here should fall upon the enemy's flank and
not even know Ricketts' position, as I have not been able to find out
al McDowell was until a late hour this morning. General McDowell will
ate steps to communicate with General Ricketts, and instruct him to re-
r divisions of his corps as soon as practicable. If any considerable advan-
be gained by departing from this order it will not be strictly carried out.
ust be had in view, that the troops must occupy a position from which
ch Bull Run to-night or by morning. The indications are that the whole
›nemy is moving in this direction at a pace that will bring them here by
ight or next day. My own headquarters will be for the present with
's corps or at this place.

"JOHN POPE,
"*Major-General, Commanding.*"

and the 62d Article of War made it the duty of McDowell to command the
ps, so long as they should continue to act together, and General Pope
›ent from the field. In this interpretation of the law Generals McDowell
greed, and upon it they acted at the time. Upon McDowell devolved the
; of modifying the joint order as its terms authorized, and as the military
med imperatively to require.
of the order contemplating that communication should be established with
the other road, or, as General McDowell interpreted it, that line should
connection with those troops, that the whole command should then halt,
troops must not go beyond a point from which they could reach Bull Run

by that night or the next morning, and the military situation, as it then appe
them, was briefly discussed by the two generals.

The situation was exceedingly critical. If the enemy should attack, as he
about ready to do, Porter's two divisions, about nine thousand men, were all th
then ready to stand between Lee's main army, just arrived on the field, and M
ell's long and weary column, or the left flank of Pope's army near Groveton. M
ell was "excessively anxious" to get King's division over on the left of Reynol
then occupied with his small division that exposed flank; and he quickly deci
"considerable advantages" were "to be gained" by departing from the term
joint order, so far as to make no attempt to go further toward Gainesville, an
once form line with the troops then engaged near Groveton; and this departu
the strict letter of the joint order was evidently required by the military situ
it then appeared and as it did actually exist.

After this brief consultation the two generals rode together through the
the right, about three-quarters of a mile toward Groveton, and made a person
ination of the ground. As soon as this was done, McDowell decided not to
troops through these woods, but to separate his own corps from Porter's, tak
division (Ricketts following) around the woods by the Sudley Springs road,
put them in beyond the woods and on the left of Reynolds.

McDowell then left Porter very hurriedly, announcing his decision, as he
by the words, "You put your force in here, and I will take mine up the Sudley
road on the left of the troops engaged at that point against the enemy," or
that effect. Even these few words, we are satisfied, Porter did not hear, or
understand, for he called, as McDowell rode away, "What shall I do?" and M
gave no audible answer, but only a wave of the hand. In this state of une
according to the testimony of one of General Porter's staff officers, Porter sent a
to King's division to ascertain positively if that division was ordered away by M
and, if not, to give proper orders for its action with his corps, and a reply was
by McDowell himself that he was going to the right and should take that
with him; that Porter had better stay where he was, and if necessary to fall
could do on McDowell's left.

This testimony has given rise to much controversy; but, in our opinion, the
whether that message was or was not sent is unimportant. If it was sent, it
differ in substance from the instructions which General McDowell testifies he
viously given to General Porter, "You put your force in here," &c. Neither
construed as directing what Porter's action should be, but only as deciding
should continue on that line while McDowell would take his own troops to
part of the field.

There appears to have been an understanding, derived either from previou
sation or from the terms of the joint order, that when McDowell did get Kin
ion on the other side of the woods, Morell's division on the right of Port
should make such connection or establish such communication with that of
might be practicable through the woods. None of them then knew how wide
belt of woods, nor what was its character beyond where they had reconnoit
whether the ground beyond was in possession of the enemy.

When the two generals had started to take that ride to the right, Morel
had been ordered to follow them, and Griffin's brigade had led off after its pi
been called in. After McDowell took his departure this movement was cont
some time and until Griffin had crossed the railroad and reached a point near
across the belt of woods and where the forest became dense. There the m
was arrested. This movement might have meant an attempt to stretch out
line through the woods, so as to connect with King's on the right or a com
the deployment for an attack upon the enemy in front. General Porter exp
as intended for an immediate attack upon the enemy if he found he could k
in support, and that he only desisted upon being informed that King was goi
But the attack would have been a rash one under the circumstances, even wi
support. Soon after this, scouts were sent on through the woods to look
Reynolds, Sigel, or some body of Union troops in the direction where artill
was heard.

Presently Griffin was withdrawn to the south side of the railroad. The
artillery opened on his troops during this latter movement, and was replied t
of Morell's batteries, but few shots being fired on either side. Then Morell's
was put in defensive order to hold the ground then occupied and under cover
enemy's artillery. The scouts sent through the woods ran upon the enemy's
and were driven back. This effort to get scouts through the woods was repe
time to time until late in the afternoon, but every effort failed. The scouts
driven back or captured. As it turned out, this resulted from the fact th
division did not get up on the right of the woods at all. That division reache
some distance in the rear of its position in the line about 4.30 p. m., and th
some marching and countermarching, was sent northward to the Warren

gap in the line which McDowell's troops were to occupy remained open all oon, and the margin of the timber remained in possession of the enemy's

ailures to connect or to communicate directly along the front were reported to McDowell by way of the Sudley Springs road, on which McDowell had e reports were made in at least four different written dispatches, which preserved. The hour was named in only one, apparently the latest, sent k in the evening. Two reports—one about 4 o'clock and the other about —were sent to General Pope direct. Both of these were received by him, not been preserved.

he time General McDowell arrived on the field at Porter's position, and for two thereafter, a heavy artillery combat was going on between the Union near Groveton and the Confederate artillery. During this artillery combat, 5 o'clock p. m., there was no infantry engagement, except skirmishing and t and sharp contests between small portions of the opposing forces, and until no musketry was audible to any one in Porter's corps.

Confederate side, as it now appears, Porter's display of troops—three brilne—in the early part of the afternoon, had given rise to the expectation of on their right. This having been reported to General Longstreet, that comnt his reserve division (Wilcox's) from his extreme left, just north of the n turnpike, to his extreme right, on the Manassas and Gainesville road. ached this latter position about 4 o'clock p. m., and Porter having before withdrawn his troops under cover, some troops from the Confederate right nes') were pushed to the front in the woods occupied by Porter's skirmishers, y to reconnoiter. This movement gave rise to the impression among Porter's lorell's division) that the enemy was about to attack about 5 p. m.

Pope having arrived some time after noon on the field in the rear of Grove-General McDowell's column approaching that part of the field by the Ma-d Sudley road, an attack was ordered upon the enemy's extreme left near nd a written order was sent, dated 4.30 p. m., to Porter to attack the ene-t, and, if possible, his rear. After some time had elapsed, General Pope cDowell, with King's division and other troops, to pursue up the Warrenton the enemy, who, thus to be assailed upon both flanks, would be compelled

ack on Jackson's left was begun by Kearney about 5 p. m.; but the order to s not delivered in time. The messenger did not find General Porter until Thus, at 5 o'clock, nothing having occurred to suggest to General Porter any the plan indicated in the joint order to retire behind Bull Run instead of ttle that day, the sound of artillery near Sudley, so much apparently to the oveton, suggested to Porter, who was then at Bethlehem Church, that Sigel ng or perhaps being driven back, and that his artillery was then in a new ear the Sudley Springs road.

s true that Sigel was being driven back, the military situation was exerilous, and Porter must instantly do what he could to avert disaster. His lorell, which must have been issued at that instant, shows what he proposed is as follows, viz:

al MORELL: Push over to the aid of Sigel and strike in his rear. If you ad up which King is moving,* and he has got ahead of you, let him pass; you cannot give help to Sigel. If you find him retiring, move back toward and, should necessity require it, and you do not hear from me, push to Cen-If you find the direct road filled, take the one via Union Mills, which is to as you return.

"F. J. PORTER,
"*Major-General.*

to the points of the compass for Manassas.

"F. J. PORTER."

vement would have left Porter with Sykes alone to hold the Manassas road the retreat of Ricketts' worn-out troops, who were then stretched along the our or five miles both toward Sudley and back toward Manassas Junction, ell should cover the retreat of the center of the army. But now, before l time to commence this movement, came a report from him that the enemy ng down in force to attack both his front and flank. Porter might in a few ave to meet the attack of twenty thousand men. The purpose to cover the Sigel must needs be abandoned. Hence Porter dispatched to Morell:

al MORELL: Hold on, if you can, to your present place. What is passing?
"F. J. PORTER."

* The Sudley road.

Again:

"General MORELL: Tell me what is passing quickly. If the enemy is coming, hel to him, and I will come up. Post your men to repulse him.

"F. J. PORTER,
"*Major-General.*"

And again, in reply to advice from Morell that they had better retire, &c.:

"We cannot retire while McDowell holds on."

Notwithstanding contradictory testimony, we believe it was at this time that Pot ordered Piatt's brigade, of Sturgis' command, about eight hundred men, to move ha to Manassas Junction and take up a defensive position to cover the expected retre General Porter reported to General McDowell his views and intentions in the follo ing dispatches:

"Generals McDOWELL and KING: I found it impossible to communicate by cros the woods to Groveton. The enemy are in great force on this road, and as they app to have driven our forces back, the fire of the enemy having advanced and com tired, I have determined to withdraw to Manassas. I have attempted to comm cate with McDowell and Sigel, but my messengers have run into the enemy. T have gathered artillery and cavalry and infantry, and the advancing masses of t show the enemy coming in force. I am now going to the head of the column to what is passing and how affairs are going, and I will communicate with you. I you not better send your train back?

"F. J. PORTER,
"*Major-General.*"

"General McDOWELL or KING: I have been wandering over the woods and failed get a communication to you. Tell how matters go with you. The enemy is in stro force in front of me, and I wish to know your designs for to-night. If left to m shall have to retire for food and water, which I cannot get here. How goes the b tle? It seems to go to our rear. The enemy are getting to our left.

"F. J. PORTER,
"*Major-General Volunteers.*"

"General McDOWELL: The firing on my right has so far retired that, as I can advance and have failed to get over to you except by the route taken by King, I c withdraw to Manassas. If you have anything to communicate, please do so. I h sent my messengers to you and General Sigel and get nothing.

"F. J. PORTER,
"*Major-General.*"

"An artillery duel is going on now; been skirmishing for a long time.

"F. J. P."

"General McDOWELL: Failed in getting Morell over to you. After wandering sl the woods for a time I withdrew him, and while doing so artillery opened upon My scouts could not get through. Each one found the enemy between us, and I b lieve some have been captured. Infantry are also in front. I am trying to get a b tery, but have not succeeded as yet. From the masses of dust on our left, and t reports of scouts, think the enemy are moving largely in that way. Please communic the way this message came. I have no cavalry or messengers now. Please let me kn your designs, whether you retire or not. I cannot get water and am out of provisio Have lost a few men from infantry firing.

"F. J. PORTER,
"*Major-General Volunteers.*"

"AUG. 29—6. p. m."

But Porter soon found the sounds of artillery had deceived him. The renewal o the firing toward Groveton showed that Pope's troops were still there. Piatt's brig was then recalled, and no further preparations for retreat were made.

Next came to Porter about 5.30 o'clock a report from the right that the enemy w in full retreat, and heavy sounds of musketry soon after showed that serious work h commenced near Groveton. Porter ordered Morell to make a strong reconnoissance learn the truth. Morell, knowing the report must be false, at least as to the enemy his front, prepared to support this reconnoissance with his whole division. Wh this preparation was being made came the long delayed order, dated 4.30 p. m., attack the enemy in flank or rear:

"HEADQUARTERS IN THE FIELD,
"*August* 29—4.30 p. m.

"Major-General PORTER: Your line of march brings you in on the enemy's ri flank. I desire you to push forward into action at once on the enemy's flank, and,

ssible, on his rear, keeping your right in communication with General Reynolds. he enemy is massed in the woods in front of us, but can be shelled out as soon as you igage their flank. Keep heavy reserves and use your batteries, keeping well closed your right all the time. In case you are obliged to fall back, do so to your right d rear, so as to keep you in close communication with the right wing.

"JOHN POPE,
"*Major-General, Commanding.*"

This order, though dated at 4.30 p. m., was not received by Porter, at Bethlehem urch, before 6.30 p. m.

The evidence before the court-martial tending to show that Porter received the 1.30" order in time to execute it is found in the testimony of the officer who carried e order, and one of the orderlies who accompanied him. Neither of these two witsses appears to have carried a watch, and their several statements of the time when e order was delivered were based on estimates of the time occupied by them in riding m General Pope's headquarters to the place where they found General Porter. One them at least knew from an inspection of the order that it was dated at 4.30; he, d probably both of them, therefore assumed that it was then that they started to iver it, and adding to that hour the estimated time occupied by them, they severally ed the hour of delivery. It is now proved by the testimony of the officer who wrote e dispatch that "4.30" was not the hour when the message started, but was the ur when he began to write the dispatch, and consequently that it was after that ur that the officer started to deliver it.

t is also shown that these messengers did not and could not, if other parts of their n testimony are true, have traveled over the route which they supposed they had en. Moreover, it was proved by unquestionable testimony, that since the courtrtial trial one of these witnesses had made statements and admissions inconsistent th and contradictory of his former testimony, and the other witness confessed before that recently he had deliberately made false statements in regard to the route taken ile carrying the dispatch. We have therefore felt compelled to lay the testimony these witnesses out of the case. An attempt was made to support these witnesses the testimony of another person, who, as it was alleged, also accompanied as an lerly the officer charged with the dispatch, but his testimony was so completely oken down by cross-examination that we regard it as entitled to no weight whatsr.

On the other hand, the testimony of General Sykes, Lieutenant-Colonel Locke, Capn Montieth, Lieutenant Ingham, and Lieutenant Weld before the court-martial, that e order in question was not delivered until about sundown, either a little before or ittle after that hour, has now been supported by a new and entirely independent tness, Captain Randol, and has been singularly confirmed by the production, for the st time, of the dispatch from Porter to McDowell, dated 6 p. m., the terms of which erly forbid the supposition that at that time Porter had received the order.

The moment this order was received Porter sent his chief of staff, Colonel Locke, to neral Morell with orders to make the attack at once. He then wrote and sent a ply to Pope, and immediately rode to the front. On his arrival there Morell had out completed his preparations for the attack under the previous order to make a onnoissance, but darkness had already come on. It was evidently impossible to complish any good that night, for, even if Morell might have begun the attack be-e dark, Sykes could not have been got into line after the order was received. The ntest at Groveton had already so far spent its force as to derive no possible aid from orell's attack. The order was based upon conditions manifestly erroneous and dited what was impossible to be done. To push Morell's division against the enemy the dark would have been in no sense obedience to that order. Porter wisely dered the preparations to cease, and the troops were put into position to pass the ght, picketing in all directions, for Porter had but a few mounted men and the emy had two thousand five hundred cavalry near his flank.

About this time, when darkness had come on, the rear of McDowell's column of weary oops was passing by the rear of Porter's column, still several miles from their destined lace on the field. The Union army was not even yet ready for battle.

The accompanying maps, marked Board Maps Nos. 2 and 3, exhibit substantially he military situation at the time the 4.30 p. m. order was issued, and that which was hen understood by General Pope to exist, as explained to the court-martial upon the rial of General Porter.

We believe this plain and simple narrative of the events of the 28th of August clearly hows the true character of General Porter's conduct during that time. We are unble to find in that conduct anything subject to criticism, much less deserving of cenure or condemnation.

Porter's duty that afternoon was too plain and simple to admit of discussion. It as to hold his position and cover the deployment of McDowell's troops until the latr, or some of them, should get into line; then to connect with them as far as might

be necessary and practicable, and then, in the absence of further orders, to concert with those troops and others to the right.

If King's division had come up on the right, as was expected, and had adva attack, Porter would have known it instantly, and thus could have joined movement.

If the main army retired, as indicated in the joint order, it was Porter's retire also, after having held his ground long enough to protect its left flanl cover the retreat of Ricketts' troops.

Porter did for a moment entertain the purpose of trying to give aid to Si was supposed to be retiring before McDowell had got King's division up to port. That was the nearest to making a mistake that Porter came that af But it soon enough became evident that such a purpose must be abandoned had quite his full share of responsibility where he was.

The preparations made for retreat were the ordinary soldierly dispositions t him to do promptly what he had good reason to expect he might be required any moment and must do at nightfall.

He made frequent reports to his superiors, stating what he had done and had been unable to do; what his situation was in respect to the enemy in and the strength of the enemy there; what his impressions were from the s action toward his right; how he had failed thus far to get any communicati any commander in the main army, or any orders from General Pope; asking M who was nearest to him, for such information and his (McDowell's) *designs for t* sending an aide-de-camp to General Pope for orders and received no reply, information that the 4.30 order had been sent to him; and, finally, inforn superiors that if left to himself, without orders, he would have to retire at r food and water, which he could not get where he was. These reports were only frequently, but early enough to insure the receipt of orders from Pope o information from McDowell, if they had any to send him, before it would be him to withdraw. All these dispatches were sent in the latter part of the af They all indicated a purpose to retire only after being assured that the ma was retiring, and then to cover the retreat of the army as far as possible, or draw after nightfall, as the joint order had indicated, if no further orders or i tion of General Pope's plans could be obtained.

There is no indication in any of those dispatches, when fairly construed, no thing which Porter did or said, of any intention to withdraw until after darl compelled to do so by the retreat of the main army; and even then he was co to hold on until McDowell's troops could get out of the way, and that was after dark, for Ricketts' division was on the road in Porter's rear all the after

It is perfectly clear that Porter had no thought whatever of retreating *enemy*, or of withdrawing because of the enemy in his front; for when the en reported advancing as if to attack, his orders were: "If the enemy is comi to him." "Post your troops to repulse him." "We cannot retire while M holds on."

It appears to have been assumed in the condemnation of General Porter's that he had some order to attack or some information of aggressive plans on of General Pope, or some intimation, suggestion, or direction to that effect fr eral McDowell, or that there was such a battle going on within his hearing, thing else in the military situation that required him to attack the enemy orders before receiving the 4.30 p. m. order at sunset. All this was the exact of the truth. General Pope's last order, General McDowell's directions whil with General Porter, the military situation as then known to both Porter and ell, and the movement McDowell had decided to make to get his own troops of battle, and the state of the action on the right of the field, all combined lutely forbid any attack by Porter during that entire afternoon until he Pope's order at sunset, and even that order could not possibly have been give situation had been correctly understood. An attack by him would have bee lation of the spirit of his orders, and a criminal blunder leading to inevita aster. In short, he had no choice as a faithful soldier but to do substantially did do.

The range of our investigation has not enabled us to ascertain the sour great error which was committed in the testimony before General Porter's co tial respecting the time of arrival of the main body of Lee's army on the fiel nassas. But the information which was in possession of the Union officers at the 29th of August, and afterward published in their official reports, together testimony before the court-martial, affords clear, explicit, and convincing pr the main body of that army must have been there on the field at that time.

The recent testimony of Confederate officers hardly adds anything to th siveness of that proof, but rather diminishes its force by showing that one (Anderson's) did not arrive until the next morning; while the information possession at that time required the Union officers to assume that that divisio

rs had arrived on the 29th. Yet General Porter's conduct was adjudged
ssumption that not more than one division under Longstreet had arrived
, and that Porter had no considerable force in his front.
is that Longstreet, with *four* divisions of full 25,000 men, was there on the
Porter arrived with his two divisions of 9,000 men; that the Confederate
chief was there in person at least two or three hours before the commander
y of Virginia himself arrived on the field, and that Porter with his two
ived the Army of Virginia that day from the disaster naturally due to the
rlier preparation for battle.
0 order had been promptly delivered, a very grave responsibility would
ved upon General Porter. The order was based upon conditions which
ially erroneous, and upon expectations which could not possibly be realized:
ed an attack upon the enemy's flank or rear, which could not be made, and
tacking force keep closed on Reynolds, who was far to the right and be-
. Yet it would have been too late to correct the error and have the order
That order appeared to be part of a general plan. It must be executed
r not at all. If Porter had made not the impossible attack which was
it a direct attack upon the enemy's right wing, would he have been blame-
fruitless sacrifice of his troops? We believe not. It is a well-established
axim that a corps commander is not justifiable in making an apparently
tack in obedience to an order from a superior who is not on the spot, and
lently in error in respect to the essential conditions upon which the order
The duty of the corps commander in such a case is to make not a real
a strong demonstration, so as to prevent the enemy in his front from send-
rcements to other parts of his line.
l that Porter would have been justifiable in doing, even if he had received
der at 5 o'clock; and such a demonstration, or even a real attack made
ock by Porter alone, could have had no beneficial effect whatever upon the
sult. It would not have diminished in the least the resistance offered to
made at other points that afternoon. The display of troops made by Por-
in the afternoon had all the desired and all possible beneficial effect. It
ngstreet's reserve division to be sent to his extreme right in front of Por-
on. There that division remained until about 6 o'clock—too late for it to
fective part in the operations at other points of the line.
ful and well-sustained attack by the combined forces of Porter's corps and
sion upon the enemy's right wing, if it had been commenced early in the
might have drawn to that part of the field so large a part of Long-
e as to have given Pope some chance of success against Jackson; but an
Porter alone could have been but an ineffective blow, destructive only to
hat made it, and, followed by a counter-attack, disastrous to the Union
h an attack, under such circumstances, would have been not only a great
it, on the part of an intelligent officer, it would have been a great crime.
neral Porter actually did do, although his situation was by no means free
rassment and anxiety at the time, now seems to have been only the simple,
ction which an intelligent soldier had no choice but to take. It is not pos-
any court-martial could have condemed such conduct if it had been cor-
erstood. On the contrary, that conduct was obedient, subordinate, faith-
licious. It saved the Union army from disaster on the 29th of August.
s the transactions upon which were based the charges of which General
pronounced guilty; but some account of the part taken by him and his
e events of the following day, August 30th, which gave rise to a charge
withdrawn, is necessary to a full understanding of the merits of the case.
. of the 30th, General Porter received the following order, and in compli-
it promptly withdrew from his position in presence of the enemy and
apidly by the Sudley road to the center of the battle-field, where he re-
General Pope for orders:

"HEADQUARTERS ARMY OF VIRGINIA,
"IN THE FIELD NEAR BULL RUN,
"*August* 29, 1862—8.50 p. m.

AL: Immediately upon receipt of this order, the precise hour of receiving
will acknowledge, you will march your command to the field of battle of
report to me in person for orders. You are to understand that you are
comply strictly with this order, and to be present on the field within three
its reception, or after daybreak to-morrow morning.

"JOHN POPE,
"*Major-General, Commanding.*

General F. J. PORTER."

August 30—3.30 a. m.]

At first sight it would appear that in this prompt and unhesitating moveme this order, General Porter committed a grave fault. He was already on th battle confronting the enemy in force, and holding a position of vital impo the security of Pope's army; while the latter appeared, from the order, to b in the dark respecting these all-important facts. It is true the order was n tive, imperative, and also distrustful in its terms. But those very terms show only the more forcibly that the order was based upon a total misapp of the essential facts, without which misapprehension it would not seem pos such an order could have been issued. The well-established military rule is an order must never be obeyed until the commander who gave it has been of his error and given an opportunity to correct it; but, upon close examin opposite view of Porter's conduct under this order appears to be the just on

Porter had repeatedly reported to McDowell the presence of the enem force in his front. Presumably these reports had gone to Pope, as one of in fact. Porter had also sent an aide-de-camp with a written message to P 4 p. m., and had sent a written reply to the 4.30 p. m. order after 6.30 p. m last two dispatches have not been preserved by General Pope, and hence tents are not known to us; but we are bound to presume that they reported tion as Porter then knew it, and as he had frequently reported it to McDo the last of these dispatches, in reply to the 4.30 p. m. order, was later latest of those in which Porter had spoken of any intention to fall back Porter had already given to his superior all the information which it was p him to give, and nothing remained for him but to obey the order. This mo Porter's corps on the morning of the 30th was the beginning of the unfort eration of that day. This corps, which had been protecting the left flank army, was withdrawn from its important position, leaving the left wing exposed to attack by greatly superior force of the enemy, brought to the the field and then ordered "in pursuit of the enemy."

"[Special Orders No. —.]

"HEADQUARTERS NEAR GROVE
"*August* 30, 186

"The following forces will be immediately thrown forward in pursuit of and press him vigorously during the whole day. Major-General McDo signed to the command of the pursuit; Major-General Porter's corps will ward on the Warrenton turnpike, followed by the divisions of Brigadie King and Reynolds. The division of Brigadier-General Ricketts will pursu Market road, followed by the corps of Major-General Heintzelman. The cavalry will be assigned to these columns by Major-General McDowell, to ular and frequent reports will be made. The general headquarters will be on the Warrenton turnpike.

"By command of Major-General Pope:

"GEO. D. RUGGLES,
"*Colonel and Chief*

"HDQRS. THIRD CORPS, ARMY OF VIRGI
"*August* 3

"Major-General McDowell being charged with the advanced forces ordered the enemy, directs me to inform you that your corps will be followed immed King's division, supported by Reynolds. Heintzelman with his corps, pr Ricketts' division, will move on your right, on the road from Sudley Spring Market. He is instructed to throw out skirmishers to the left, which is des should join with your right. General McDowell's headquarters will be at th Reynolds' division, on the Warrenton road. Organize a strong advance your command, and push on rapidly in pursuit of the enemy, until you con tact with him. Report frequently. Bayard's brigade will be ordered to you; push it well to the left as you advance.

"Very respectfully, your obedient servant, "ED. SCHRIV
"*Colonel and Chief*

"Major-General PORTER,
"*Commanding, etc.*"

These orders led to an attack upon the Confederate left wing, Jackson's made mainly by Butterfield's and Barnes' brigades, of Morell's division, and division, which is described as follows by the Confederate generals:

[Extract from General Lee's report of operations of the Army of Northern Virginia, b nassas.]

"HDQRS. ARMY OF NORTHERN VIRGINIA, *March*

"SIR: * * About 3 p. m. the enemy, having massed his troops in fro eral Jackson, advanced against his position in strong force. His front li

'ard until engaged at close quarters by Jackson's troops, when its progress was ked, and a fierce and bloody struggle ensued. A second and third line, of great ıgth, moved up to support the first, but in doing so came within easy range of a tion a little in advance of Longstreet's left. He immediately ordered up two bat- s, and two others being thrown forward about the same time by Col. S. D. Lee, r their well-directed and destructive fire the supporting lines were broken and back in confusion. Their repeated efforts to rally were unavailing, and Jackson's e being thus relieved from the pressure of overwhelming numbers, began to press lily forward, driving the enemy before them. He retreated in confusion, suffer- everely from our artillery, which advanced as he retired. General Longstreet, ipating the order for a general advance, now threw his whole command against Federal center and left. * * *

"I have the honor to be, very respectfully, your obedient servant,

"R. E. LEE, *General.*

General S. COOPER,

"*Adjutant and Inspector-General, Richmond, Va.*"

[Extract from the report of General James Longstreet, October 10, 1862.]

* * "During the day Col. S. D. Lee with his reserve artillery placed in the ion occupied the day previous by General Walton, and engaged the enemy in a severe artillery combat. The result was, as the day previous, a success. At 3.30 ak in the afternoon I rode to the front for the purpose of completing arrange- a for making a diversion in favor of a flank movement then under contemplation. after reaching my front line I received a message for reinforcements for General son, who was said to be severely pressed. From an eminence near by, one portion e enemy's masses attacking General Jackson were immediately within my view in easy range of batteries in that position. It gave me an advantage that I had xpected to have, and I made haste to use it. Two batteries were ordered for the ose, and one placed in position immediately and opened. Just as the fire began eived a message from the commanding general informing me of General Jackson's ition and his wants. As it was evident that the attack against General Jackson l not be continued ten minutes under the fire of these batteries, I made no move- with my troops."

* * * * * * *

Extract from report of General Jackson of operations from August 15 to September 5, 1862.]

"HEADQUARTERS SECOND CORPS, A. N. V., *April* 27, 1863.

GENERAL: After some desultory skirmishing and heavy cannonading during the the Federal infantry, about 4 o'clock in the evening, moved from under cover of wood and advanced in several lines, first engaging the right, but soon extending ttack to the center and left. In a few moments our entire line was engaged in a e and sanguinary struggle with the enemy. As one line was repulsed another took lace and pressed forward as if determined, by force of numbers and fury of assault, rive us from our positions. So impetuous and well sustained were these onsets as duce me to send to the commanding general for reinforcements; but the timely gallant advance of General Longstreet on the right relieved my troops from the sure of overwhelming numbers, and gave to these brave men the chances of a more l conflict. As Longstreet pressed upon the right the Federal advance was checked, soon a general advance of my whole line was ordered.

"T. J. JACKSON,

"*Lieutenant-General.*

Brigadier-General R. H. CHILTON,

"*A. A. A. General, Headquarters Department A. N. V.*"

Longstreet's army pressed forward to strike Pope's exposed left wing and flank, ren, with his little brigade, sprung into the gap and breasted the storm until but ndful of his brave men were left alive. Then Sykes, with his disciplined brigades, Reynolds, with his gallant Pennsylvania Reserves, seized the commanding ground ear, and, like a rock, withstood the advance of the victorious enemy and saved the n army from rout.

ıus did this gallant corps nobly and amply vindicate the character of their trusted f, and demonstrate to all the world that "disobedience of orders" and "misbe- or in the presence of the enemy" are crimes which could not possibly find place e head or heart of him who thus commanded that corps.

ese events of the 30th of August were excluded from the evidence before the t-martial that tried General Porter; but justice requires that they should be men- ed here as having an important bearing upon the question of animus which was rongly dwelt upon in the review of Porter's case by the Judge-Advocate-General. e foregoing is the simple history of the part taken by Porter and his corps in the

events which gave rise to the following charges and specifications, findings and sentence, and executive action:

"[General Orders No. 18.]

"WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
"*Washington, January* 22, 1863.

"I. Before a general court-martial which convened in the city of Washington, D. C., November 27, 1862, pursuant to Special Orders No. 362, dated Headquarters of the Army, November 25, 1862, and of which Major-General D. Hunter, U. S. Volunteers, is president, was arraigned and tried Major-General Fitz-John Porter, U. S. Volunteers.

"CHARGE I. 'Violation of the 9th Article of War.'

"SPECIFICATION 1ST. 'In this: that the said Major-General Fitz-John Porter, of the volunteers of the United States, having received a lawful order, on or about the 27th August, 1862, while at or near Warrenton Junction, in Virginia, from Major-General John Pope, his superior and commanding officer, in the following figures and letters, to wit:

"HEADQUARTERS ARMY OF VIRGINIA,
"*August* 27, 1862—6.30 p. m., Bristoe Station.

"GENERAL: The major-general commanding directs that you start at one o'clock to-night and come forward with your whole corps, or such part of it as is with you, so as to be here by daylight to-morrow morning. Hooker has had a very severe action with the enemy, with a loss of about three hundred killed and wounded. The enemy has been driven back, but is retiring along the railroad. We must drive him from Manassas and clear the country between that place and Gainesville, where McDowell is. If Morell has not joined you, send word to him to push forward immediately; also send word to Banks to hurry forward with all speed to take your place at Warrenton Junction. It is necessary, on all accounts, that you should be here by daylight. I send an officer with this dispatch, who will conduct you to this place. Be sure to send word to Banks, who is on the road from Fayetteville, probably in the direction of Bealeton. Say to Banks, also, that he had best run back the railroad train to this side of Cedar Run. If he is not with you, write him to that effect.

"By command of Major-General Pope.

"GEO. D. RUGGLES,
"*Colonel and Chief of Staff.*

"Major-General F. J. PORTER, *Warrenton Junction.*

"P. S.—If Banks is not at Warrenton Junction, leave a regiment of infantry and two pieces of artillery as a guard till he comes up, with instructions to follow you immediately. If Banks is not at the Junction instruct Colonel Clary to run the trains back to this side of Cedar Run, and post a regiment and section of artillery with it.

"By command of Major-General Pope.

"GEO. D. RUGGLES,
"*Colonel and Chief of Staff.*"

Did then and there disobey the said order, being at the time in the face of the enemy. This at or near Warrenton, in the State of Virginia, on or about the 28th of August, 1862.'

"SPECIFICATION 2D.—'In this: that the said Major-General Fitz-John Porter, being in front of the enemy, at Manassas, Virginia, on or about the morning of August 29, 1862, did receive from Major-General John Pope, his superior and commanding officer, a lawful order, in the following letters and figures, to wit:

"HEADQUARTERS ARMY OF VIRGINIA,
"*Centreville, August* 29, 1862.

"You will please move forward with your joint commands towards Gainesville. I sent General Porter written orders to that effect an hour and a half ago. Heintzelman, Sigel, and Reno are moving on the Warrenton turnpike, and must now be not far from Gainesville. I desire that as soon as communication is established between this force and your own, the whole command shall halt. It may be necessary to fall back behind Bull Run at Centreville to-night. I presume it will be so on account of our supplies. I have sent no orders of any description to Ricketts, and none to interfere in any way with the movements of McDowell's troops, except what I sent by his aide-de-camp last night, which were to hold his position on the Warrenton pike until the troops from here should fall on the enemy's flank and rear. I do not even know Ricketts' position, as I have not been able to find out where General McDowell was until a late hour this morning. General McDowell will take immediate steps to communicate with General Ricketts and instruct him to join the other divisions of his corps as soon as practicable. If any considerable advantages are to be gained by departing from this order, it will not be strictly carried out. One thing must be held in view: that the troops must occupy a position from which they can reach Bull Run to-night

ıorning. The indications are that the whole force of the enemy is moving in
ction at a pace that will bring them here by to-morrow night or the next day.
headquarters will for the present be with Heintzelman's corps or at this place.

"JOHN POPE,
"*Major-General, Commanding.*

rals McDOWELL and PORTER."

rder the said Major-General Porter did then and there disobey. This at or
nassas, in the State of Virginia, on or about the 29th of August, 1862.'

IFICATION 3D.—'In this: that the said Major-General Fitz-John Porter having
ront of the enemy during the battle of Manassas, on Friday, the 29th of Au-
2, did on that day receive from Major-General John Pope, his superior and
ing officer, a lawful order, in the following letters and figures, to wit:

"HEADQUARTERS IN THE FIELD, *August* 29, 1862—4.30 p. m.

line of march brings you in on the enemy's right flank. I desire you to push
nto action at once on the enemy's flank, and, if possible, on his rear, keeping
it in communication with General Reynolds. The enemy is massed in the
front of us, but can be shelled out as soon as you engage their flank. Keep
serves, and use your batteries, keeping well closed to your right all the time.
ou are obliged to fall back, do so to your right and rear, so as to keep you in
munication with the right wing.

"JOHN POPE,
"*Major-General, Commanding.*

-General PORTER."

aid order the said Major-General Porter did then and there disobey, and
push forward his forces into action either on the enemy's flank or rear, and
ner respects did fail to obey said order. This at or near Manassas, in the
Virginia, on or about the 29th of August, 1862.'

IFICATION 4TH.—'In that the said Major-General Fitz-John Porter, being at
Manassas Junction on the night of 29th August, 1862, did receive from Major-
John Pope, his superior and commanding officer, a lawful order, in figures
s as follows, to wit:

"HEADQUARTERS ARMY VIRGINIA, IN THE FIELD NEAR BULL RUN,
"*August* 29, 1862—8.50 p. m.

RAL: Immediately upon receipt of this order, the precise hour of receiving
u will acknowledge, you will march your command to the field of battle of
nd report to me in person for orders. You are to understand that you are
to comply strictly with this order, and to be present on the field within
rs after its reception, or after daybreak to-morrow morning.

"JOHN POPE,
"*Major-General, Commanding.*

r-General F. J. PORTER."

said Major-General Fitz-John Porter did then and there disobey the said
d did permit one of the brigadiers of his command to march to Centreville—
e way of the field of battle—and there to remain during the entire day of
, the 30th of August. This at or near Manassas Station, in the State of Vir-
the 29th and 30th days of August, 1862.'

IFICATION 5TH.—'In this: that the said Major-General Fitz-John Porter, being
r Manassas Station, in the State of Virginia, on the night of the 29th August,
having received from his superior commanding officer, Major-General John
lawful order set forth in specification fourth to this charge, did then and
obey the same, and did permit one other brigade attached to his command—
brigade commanded by Brigadier-General A. S. Piatt—to march to Centre-
did thereby greatly delay the arrival of the said General Piatt's brigade on
of the battle of Manassas, on Saturday, the 30th August, 1862. This at or
nassas, in the State of Virginia, on or about the 29th day of August, 1862.'

GE II —'Violation of the 52d Article of War.'

IFICATION 1ST.—'In this: that the said Major-General Fitz-John Porter, during
of Manassas, on Friday, the 29th August, 1862, and while within sight of
nd in full hearing of its artillery, did receive from Major-General John Pope,
ior and commanding officer, a lawful order to attack the enemy, in the fol-
gures and letters, to wit:

"HEADQUARTERS IN THE FIELD, *August* 29, 1862—4.30 p. m.

line of march brings you in on the enemy's right flank. I desire you to push
nto action at once on the enemy's flank, and, if possible, on his rear, keep-

ing your right in communication with General Reynolds. The enemy is ma
the woods in front of us, but can be shelled out as soon as you engage their
Keep heavy reserves, and use your batteries, keeping well closed to your right
time. In case you are obliged to fall back, do so to your right and rear, so as t
you in close communication with the right wing.

"JOHN POPE
"*Major-General, Comma*

"Major-General PORTER."

Which said order the said Major-General Porter did then and there shamef
obey, and did retreat from advancing forces of the enemy without any attemp
gage them, or to aid the troops who were already fighting greatly superior n
and were relying on the flank attack he was thus ordered to make to secure a
victory and to capture the enemy's army, a result which must have followed fi
flank attack had it been made by the said General Porter in compliance with
order which he so shamefully disobeyed. This at or near Manassas, in the
Virginia, on or about the 29th of August, 1862.'

"SPECIFICATION 2D.—'In this: that the said Major-General Fitz-John Porte
with his army corps on Friday, the 29th August, 1862, between Manassas Sta
the field of battle then pending between the forces of the United States and
the rebels, and within sound of the guns and in the presence of the enemy, an
ing that a severe action of great consequence was being fought, and that the a
corps was greatly needed, did fail all day to bring it on to the field, and did
fully fall back and retreat from the advance of the enemy without any att
give them battle, and without knowing the forces from which he shamefully re
This near Manassas Station, in the State of Virginia, on the 29th of August, 1

"SPECIFICATION 3D.—'In that the said Major-General Fitz-John Porter, bei
his army corps near the field of battle of Manassas on the 29th of August, 186
a severe action was being fought by the troops of Major-General Pope's comma
being in the belief that the troops of the said General Pope were sustaining de
retiring from the field, did shamefully fail to go to the aid of the said troops a
eral, and did shamefully retreat away, and did fall back with his army to the M
Junction, and leave to the disasters of a presumed defeat the said army; and
by any attempt to attack the enemy, to aid in averting the misfortune of a
that would have endangered the safety of the capital of the country. This at
Manassas Station, in the State of Virginia, on the 29th day of August, 1862.'

"SPECIFICATION 4TH.—'In this: that the said Major-General Fitz-John P
the field of battle of Manassas, on Saturday, the 30th August, 1862, having
a lawful order from his superior officer and commanding general, Major-Gene
Pope, to engage the enemy's lines, and to carry a position near their centre, an
an annoying battery there posted, did proceed in the execution of that order
necessary slowness; and by delays give the enemy opportunities to watch an
his movements, and to prepare to meet his attack; and did finally so feebly f
the enemy's lines as to make little or no impression on the same, and did fall b
draw away his forces unnecessarily, and without making any of the great
efforts to rally his troops or to keep their lines, or to inspire his troops to
sacrifices and to make the resistance demanded by the importance of his posi
the momentous consequences and disasters of a retreat at so critical a junctu
day.'"

To which charges and specifications the accused, Major-General Fitz-John
United States Volunteers, pleaded as follows:

"CHARGE I.

"To specification 1st, 'Not guilty.'
"To specification 2d, 'Not guilty.'
"To specification 3d, 'Not guilty.'
"To specification 4th, 'Not guilty.'
"To specification 5th, 'Not guilty.'
"And to the charge, 'Not guilty.'

"CHARGE II.

"To specification 1st, 'Not guilty.'
"To specification 2d, 'Not guilty.'
"To specification 3d, 'Not guilty.'
"And to the charge, 'Not guilty.'

"FINDING.

The court, having maturely considered the evidence adduced, finds the accused, or-General Fitz-John Porter, of United States Volunteers, as follows:

"CHARGE I.

)f the 1st specification, 'Guilty.'
)f the 2d specification, 'Guilty.'
)f the 3d specification, 'Guilty.'
)f the 4th specification, 'Not guilty.'
)f the 5th specification, 'Not guilty.'
)f the charge, 'Guilty.'

HARGE II.—Of the 1st specification, 'Guilty, except so much of the specification .)lies that he, the accused, "did retreat from advancing forces of the enemy," after ceipt of the order set forth in said specification.' Of the 2d specification, ty.' Of the 3d specification, 'Guilty, except the words, 'to the Manassas Junc- Of the charge, 'Guilty.'"

"SENTENCE.

d the court does therefore sentence him, Major-General Fitz-John Porter, of the l States Volunteers, '*to be cashiered, and to be forever disqualified from holding any f trust or profit under the Government of the United States.*'

. In compliance with the 65th of the Rules and Articles of War, the whole pro- gs of the general court-martial in the foregoing case have been transmitted to cretary of War, and by him laid before the President of the United States. e following are the orders of the President: 'The foregoing proceedings, findings, ntence in the foregoing case of Major-General Fitz-John Porter are approved and ned; and it is ordered that the said Fitz-John Porter be, and hereby is, cashiered smissed from the service of the United States as a major-general of volunteers, colonel and brevet brigadier-general in the regular service of the United States, rever disqualified from holding any office of trust or profit under the Govern- of the United States.
nuary 21, 1863.

'ABRAHAM LINCOLN.'

I. The general court-martial, of which Major-General Hunter is president, is here- solved.
order of the Secretary of War:

"L. THOMAS, *Adjutant-General.*

fficial:
"*Assistant Adjutant-General.*"

se charges and specifications certainly bear no discernible resemblance to cts of the case as now established. Yet it has been our duty to carefully com- with these facts the views entertained by the court-martial, as shown in the gs and in the review of the case which was prepared for the information of the lent by the Judge-Advocate-General who had conducted the prosecution, and o clearly perceive every error into which the court-martial was led. We trust it necessary for us to submit in detail the results of this comparison, and that it e sufficient for us to point out the fundamental errors, and to say that all the ial facts in every instance stand out in clear and absolute contrast to those sup- facts upon which General Porter was adjudged guilty.

fundamental errors upon which the conviction of General Porter depended may nmed up in few words. It was maintained, and apparently established to the . ction of the court-martial, that only about one-half of the Confederate army was field of the Manassas on the 29th of August, while General Lee, with the other was still beyond the Bull-Run Mountains; that General Pope's army, exclusive of r's corps, was engaged in a severe and nearly equal contest with the enemy, and eeded the aid of a flank attack which Porter was expected to make to insure the and destruction or capture of the Confederate force in their front under General on; that McDowell and Porter, with their joint forces, Porter's leading, had ad- d towards Gainesville until the head of their column had reached a point near arrenton turnpike, where they found a division of Confederate troops, "seven- giments," which Buford had counted as they passed through Gainesville, march- ong the road across Porter's front, and going toward the field of battle at Grove- hat McDowell ordered Porter to at once attack that column thus moving to ackson, or the flank and rear of the line if they had formed in line, while he take his own troops by the Sudley Springs road and throw them upon the 's center near Groveton; that Porter, McDowell having then separated from him,

disobeyed that order to attack, allowed that division of the enemy's troops t him unmolested, and then fell back and retreated toward Manassas Junction Porter then remained in the rear all the afternoon, listening to the sounds of and coolly contemplating a presumed defeat of his comrades on the center and r the field; that this division of the enemy having passed Porter's column and on the right of Jackson's line, near Groveton, an order was sent to Porter to the right flank or the rear of the enemy's line, upon which his own line of marc bring him, but that he had willfully disobeyed, and made no attempt to execu order; that in this way was lost the opportunity to destroy Jackson's detache before the other wing of General Lee's army could join it, and that this junctio ing been effected during the night of the 29th, the defeat of General Pope's a the 30th thus resulted from General Porter's neglect and disobedience.

Now, in contrast to these fundamental errors, the following all-important fi fully established.

As Porter was advancing toward Gainesville, and while yet nearly four mil that place and more than two miles from the nearest point of the Warrent pike, he met the right wing of the Confederate army, twenty-five thousand which had arrived on the field that morning and was already in line of batt being at that moment quite fully informed of the enemy's movements, and be under orders from Pope to push rapidly toward Gainesville, Porter was press ward to attack the enemy in his front, when McDowell arrived on the field w information of the enemy, and later and very different orders from Pope, assu command, and arrested Porter's advance. This latter information left no doubt that the main body of Lee's army was already on the field and far in of Pope's army in preparation for battle. General McDowell promptly decide attempt to go further to the front, but to deploy his column so as to form line nection with General Pope's right wing, which was then engaged with Jack do this General McDowell separated his corps entirely from General Porter's, relinquished the command and all right to the command of Porter's corps. M did not give Porter any order to attack, nor did he give him any order wha govern his action after their separation.

It does not appear from the testimony that he conveyed to General Porte way the erroneous view of the military situation which was afterward ma before the court-martial, nor that he suggested to General Porter any expecta he would make an attack. On the contrary, the testimony of all the witnes what was actually said and done; the information which McDowell and Por had respecting the enemy, and the movement which McDowell decided to m did make, with his own troops, prove conclusively that there was left no doubt in Porter's mind that his duty was to stand on the defensive and hol sition until McDowell's movement could be completed. It would have ind great error of military judgment to have done or ordered the contrary, in t tion as then fully known to both McDowell and Porter.

General Pope appears from his orders and from his testimony to have bee time wholly ignorant of the true situation. He had disapproved of the sending etts to Thoroughfare Gap to meet Longstreet on the 28th, believing that t body of Lee's army could not reach the field of Manassas before the night of t Hence, he sent the order to Porter dated 4.30 p. m., to attack Johnson's right rear. Fortunately that order did not reach Porter until about sunset—too any attack to be made. Any attack which Porter could have made at any t afternoon must necessarily have been fruitless of any good result. Porter's subordinate, and intelligent conduct that afternoon saved the Union army defeat which would otherwise have resulted that day from the enemy's mor concentration. The only seriously critical period of that campaign, viz, bet a. m. and sunset of August 29, was thus safely passed. Porter had unders appreciated the military situation, and, so far as he had acted upon his own ju his action had been wise and judicious. For the disaster of the succeedin was in no degree responsible. Whoever else may have been responsible, i flow from any action or inaction of his.

The judgment of the court-martial upon General Porter's conduct was e based upon greatly erroneous impressions, not only respecting what that really was and the orders under which he was acting, but also respectin circumstances under which he acted. Especially was this true in respect to acter of the battle of the 29th of August. That battle consisted of a number and gallant combats between small portions of the opposing forces. Those were of short duration and were separated by long intervals of simple skirmis artillery duels. Until after 6 o'clock only a small part of the troops on ei were engaged at any time during the afternoon. Then, about sunset, one a division on each side was engaged near Groveton. The musketry of that la and the yells of the Confederate troops about dark were distinctly heard by cers of Porter's corps; but at no other time during all that afternoon was th

uch that it could be heard at the position of Porter's troops. No sound
tillery was heard by them during all those hours when Porter was under-
court-martial to have been listening to the sounds of a furious battle rag-
ely to his right. And those sounds of artillery were by no means such
a general battle.
of the 29th and those of the 30th of August have somehow been strangely
ith each other. Even the Confederate reports have, since the termina-
ar, been similarly misconstrued. Those of the 30th have been misquoted
the 29th, thus to prove that a furious battle was going on while Porter
ively inactive on the 29th. The fierce and gallant struggle of his own
30th has thus been used to sustain the original error under which he was
General Porter was, in effect, condemned for not having taken any part
attle. Such was the error upon which General Porter was pronounced
most shameful crime known among soldiers. We believe not one among
t soldiers on that bloody field was less deserving of such condemnation

ce of bad animus in Porter's case ceases to be material in view of the
is soldierly and faithful conduct. But it is our duty to say that the in-
nkind terms in which General Porter expressed his distrust of the capac-
erior commander cannot be defended. And to that indiscretion was due,
measure, the misrepresentation of both his motives and his conduct
quent condemnation.
s given the reasons for our conclusions, we have the honor to report, in
ith the President's order, that, in our opinion, justice requires at his hands
may be necessary to annul and set aside the findings and sentence of
tial in the case of Major-General Fitz-John Porter, and to restore him to
of which that sentence deprived him—such restoration to take effect
of his dismissal from service.
spectfully, your obedient servants,

J. M. SCHOFIELD,
Major-General U. S. Army.
ALFRED H. TERRY,
Brigadier-General U. S. Army.
GEO. W. GETTY,
Brevet Major-General U. S. Army, Colonel 3d Artillery.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed to accompany Report No. 158.

OGAN, from the Committee on Military Affairs, submitted the following as the

VIEWS OF THE MINORITY:

undersigned beg leave to dissent from the report of the majority Military Committee of the Senate in the case now before the Con- of the United States in the nature of a bill proposing to set aside eclare null and void the judgment and proceedings of a general martial, which, by its findings and sentence, cashiered and dis- l from the Army of the United States, on the 10th day of Janu- . D. 1863, Major-General Fitz-John Porter.

orders convening the said court-martial, their findings, sentence, e approval of the same are as follows:

ings of a general court-martial which convened at the city of Washington, in the District of Columbia, by virtue of the following special order:

HEADQUARTERS OF THE ARMY,
Adjutant-General's Office, Washington, November 25, 1862.

SPECIAL ORDERS NO. 362.

[Extract.]

e military commission ordered to assemble on the 20th instant by Special Orders , November 17, 1862, from Headquarters of the Army, is hereby dissolved, and al court-martial is hereby appointed, to meet in this city on the 27th instant, on thereafter as practicable, for the trial of Major General Fitz-John Porter, States Volunteers.

DETAIL FOR THE COURT.

Gen. D. Hunter, United States Volunteers.
Gen. E. A. Hitchcock, United States Volunteers.
Gen. Rufus King, United States Volunteers.
Gen. B. M. Prentiss, United States Volunteers.
Gen. James B. Ricketts, United States Volunteers.
Gen. Silas Casey, United States Volunteers.
Gen. James A. Garfield, United States Volunteers.
Gen. N. Buford, United States Volunteers.
Gen. J. P. Slough in place of Morris.
J. Holt, Judge-Advocate-General, United States Army, judge-advocate and r of the court.
her officers than these named can be assembled without manifest injury to the mmand of Major-General Halleck.

E. D. TOWNSEND,
Assistant Adjutant General.

WASHINGTON, D. C., *January* 10, 1863.

ourt met pursuant to adjournment. Present: Major-General D. Hunter, Uni- es volunteers; Major-General E. A. Hitchcock, United States volunteers; Brig-

adier-General Rufus King, United States volunteers; Brigadier-General B. M. Prenti United States volunteers; Brigadier-General James B. Ricketts, United States v unteers; Brigadier-General Silas Casey, United States volunteers; Brigadier-Gene James A. Garfield, United States volunteers; Brigadier-General N. B. Buford, Uni States volunteers; Brigadier-General J. P. Slough, United States volunteers, and (onel Joseph Holt, Judge-Advocate-General.

The accused, with his counsel, was also present.

The minutes of the last session were then read and approved.

The accused then presented a written address (marked "Defense of Accused," appended hereto), which was read by his counsel in his defense.

The JUDGE-ADVOCATE then submitted the case to the court, with the followin marks:

I will simply remark that this case has been thoroughly and most patiently inv gated. A continuous session of some forty-five days sufficiently attests this. Ind the greater part of the evidence touching the more important and the more sev contested points has, by re-examination and cross-examination, been again and a impressed upon your minds, so that I now feel entirely satisfied that it is compl comprehended and appreciated by you in all its bearings.

Whatever, therefore, of inaccuracies of interpretation of testimony, and what of illogical deduction from it may have found a place in the very elaborat fense of the accused, which has been read, may be safely left for their correcti the recollection and the judgment of the court.

To prepare a written reply in keeping with the gravity of this proceeding t argument of the accused would require several days, thus involving a delay v it is most important to avoid. From this consideration, and from the urgent de which exists for the services of members of this court in other and more active of duty, it is felt that the public interests will be best subserved by asking, as I do, that you will proceed at once to deliberate upon and determine the issues v are before you.

The court was thereupon cleared for deliberation, and, having maturely consid the evidence adduced, find the accused, Major-General Fitz-John Porter, of U States Volunteers, as follows:

Of the first specification of first charge, guilty.

Of the second specification of first charge, guilty.

Of the third specification of first charge, guilty.

Of the fourth specification of first charge, not guilty.

Of the fifth specification of first charge, not guilty.

Of the first charge, guilty,

Of the first specification of second charge, guilty, except so much of the specific as implies that he, the accused, "did retreat from advancing forces of the en *after* the receipt of the order set forth in said specification.

Of the second specification of second charge, guilty.

Of the third specification of second charge, guilty, except the words "to the nassas Junction."

Of the second charge, guilty.

And the court do therefore sentence him, Major-General Fitz John Porter, c United States volunteers, to be cashiered, and to be forever disqualified from ho any office of trust or profit under the Government of the United States.

D. HUNTER,
Major-General, Presid
J. HOLT,
Judge Advoc

There being no further business before them, the court adjourned *sine die.*

D. HUNTER,
Major-General, Presid
J. HOLT,
Judge Advoc

HEADQUARTERS OF THE ARMY,
Washington, January 13, 1

In compliance with the 65th article of war, these whole proceedings are transm to the Secretary of War, to be laid before the President of the United States.

H. W. HALLECK,
General-in-Ch

The following are the orders of the President: "The foregoing proceedings ings, and sentence in the foregoing case of Major-General Fitz-John Porter a

record in the United States, was as valid a judicial tribunal for of causes within its competency as any court in the land.

ase of General Fitz-John Porter was within the jurisdiction of t. He appeared and was satisfied with the composition of the rtial, and declared that he had no objection to any member of t.

general officers sat in that trial under the obligations of a special escribed by statute, among other things to "well and truly try ermine according to evidence and to duly administer justice." he character of the men who composed the court, we refer to Gardner's brief, and quote as follows:

ine general officers were: 1. Maj. Gen. David Hunter, United States Volun- he District of Columbia. Graduated at United States Military Academy, nel and brevet major-general, United States Army; now on retired list.

Gen. Ethan Allen Hitchcock, of Vermont. Graduated United States Mili- emy 1817; now deceased.

Gen. Rufus King, United States Volunteers, of New York. Graduated ates Military Academy 1833; subsequently resident minister to Rome; now

Gen. Benjamin Mayberry Prentiss, United States Volunteers, of Virginia; tly appointed major-general of volunteers, to date November 29, 1862. d by Hon. Reverdy Johnson in 1863 (printed pamphlet, p. 11) for "skillful Helena, Ark."]

Gen. James Brewerton Ricketts, United States Volunteers, of New York. t at United States Military Academy 1839; brevet major-general, United ny; now major-general, United States Army; on retired list.

Gen. Silas Casey, United States Volunteers, of Rhode Island. Graduated States Military Academy 1826; subsequently appointed major-general of ates Volunteers, to date May 31, 1862, in acknowledgment of service in bat- ir Oaks"; brevet major-general, United States Army, and now on retired

Gen. James Abram Garfield, United States Volunteers, of Ohio, formerly taff to Major-General Rosecrans; afterward major-general United States s for gallant and meritorious services in the battle of Chickamauga. Repre- in Congress from Ohio since 1862, and recently elected to the United States

Gen. Napoleon B. Buford, United States Volunteers, of Kentucky. Grad-

the rules and articles of war. Their position and responsibility w largely different from that of a board of gentlemen assembled to h *ex parte* statements, clothed with no legal authority, and with no resp sibility. The majority of the committee base their report, as well the bill accompanying it, upon the findings of a board of officers of Army convened under the following order:

[Special Orders No. 78.]

HEADQUARTERS OF THE ARMY,
ADJUTANT-GENERAL'S OFFICE,
Washington, April 12, 1

The following order has been received from the War Department.
An appeal has been made to the President, as follows:

"NEW YORK, *March* 9, 1

"To His Excellency RUTHERFORD B. HAYES,
"*President of the United States:*

"SIR: I most respectfully, but most urgently, renew my oft-repeated appeal t you review my case. I ask it as a matter of long-delayed justice to myself. I it upon the ground heretofore stated, that public justice cannot be satisfied so l my appeal remains unheard. My sentence is a *continuing sentence*, and made to my daily life. For this reason, if for no other, my case is ever within the reach ecutive as well as legislative interference.

"I beg to present copies of papers heretofore presented, bearing upon my cas trust that you will deem it a proper one for your prompt and favorable consider

"If I do not make it plain that I have been wronged, I alone am the sufferer. do make it plain that great injustice has been done me, then I am sure that yo all others who love truth and justice, will be glad that the opportunity for my cation has not been denied.

"Very respectfully, yours,

"FITZ-JOHN PORT

In order that the President may be fully informed of the facts of the case o John Porter, late major-general of volunteers, and be enabled to act advisedl his application for relief in said case, a board is hereby convened, by order President, to examine, in connection with the record of the trial by court-ma Major-General Porter, such new evidence relating to the merits of said case as on file in the War Department, together with such other evidence as may be pre to said board, and to report, with the reasons for their conclusion, what ac any, in their opinion, justice requires should be taken on said application by th ident.

Detail for the board.

Maj. Gen. J. M. Schofield.
Brig. Gen. A. H. Terry.
Col. G. W. Getty, Third Artillery.
Maj. Asa B. Gardner, Judge Advocate, Recorder.

The board will convene at West Point, N. Y., on the 20th day of June, 18 is authorized to adjourn from time to time, and to sit in such place as may be expedient.

By command of General Sherman:

E. D. TOWNSEND
Adjutant-Ge

Official:
L. H. PELOUZE,
Assistant Adjutant-General.

After this board had been in session for some two months they to the following conclusions:

The evidence of bad animus in Porter's case ceases to be material in view evidence of his soldierly and faithful conduct. But it is our duty to say that discreet and unkind terms in which General Porter expressed his distrust of pacity of his superior commander cannot be defended. And to that indiscreti due, in very great measure, the misinterpretation of both his motives and his c and his consequent condemnation.

ıg thus given the reasons for our conclusions, we have the honor to report, in ıce with the President's order, that, in our opinion, justice requires at his ıch action as may be necessary to annul and set aside the findings and sen- the court-martial in the case of Major-General Fitz-John Porter, and to re- n to the positions of which that sentence deprived him—such restoration to ıct from the date of his dismissal from the service.

ery respectfully, your obedient servants,

J. M. SCHOFIELD,
Major-General U. S. Army.
ALFRED H. TERRY,
Brigadier-General U. S. Army.
GEO. W. GETTY,
Brevet Major-General U. S. Army, Colonel 3d Artillery.

hat capacity was this board to act, under the order convening it? ns that by that order they were merely to report such evidence on file in the War Department, and such other as might be pre- to the President, so that he might be informed as to what action ıld take in the premises. It is at least presumable that the Pres- nly desired to be informed as to whether General Fitz-John Por- ı a proper subject for pardon. Certainly he did not need to be ɔd as to whether he should restore General Porter to the Army ınk from date of dismissal. The President is too well informed know that he has no such power of restoration. He knows, of that he may grant a pardon whenever a case is made out which s him as to its justice. The board, however, recommended the ɔnt to take such action as will restore General Porter to the to date back to his dismissal. Of itself this shows that the board understand either their own authority or the extent of the Pres- power in the premises. If the board was convened merely to re- idence, to correct history, or to enable the President to determine ıe justice of a pardon, then to that extent they were to act within nain of their authority.

ommission created by the President has power to review for any e except for the purposes thus stated, and in such review they and cannot act as a court. Such a commission is simply an asso- of gentlemen with no element of judicial functions either under military law. Their opinions may or may not be respected, but are ense authentic. Their assembly is not a court, and in no respect y exercise judicial power, or render judicial decrees. When they t to review the proceedings of a lawfully constituted court-martial ɔommend that such proceedings should be declared null and void, ıght to know that they were convened for no such purpose, or if ere, then they were convened without authority of law, and had l existence. They should have known that they had no power ɔority to inquire into the findings and proceedings of the court- l, to swear witnesses, take testimony, or to hear and determine estion of law or fact in connection with it.

r action in the premises is unwarranted in law or by precedent. ıttempt to pass judgment on proceedings which were a finality, view of overturning the decision of the court, is an effort to set ıppellate court superior to the court duly authorized by law. Pos- may be said by some that by such means the consciences of ss may be prepared for sundry raids upon the Treasury in favor ɜrs who have been duly dismissed from the service of the United when by lapse of time, death of witnesses, failure of memory, &c., may be made on *ex parte* testimony by which they may be re- to rank and pay for services never rendered.

ıis minority report we will not undertake to examine as to incor

rect statements upon which the unwarranted conclusions of the board of officers are based who have attempted to review and pass judgment upon the proceedings of the court-martial which tried General Porter. Neither the legal status of the board nor the facts in the case would warrant such a course. Their report is an assumption of superior information and sound judgment on their part, and an assertion of erroneous opinions on the part of the court-martial. These assumptions are not borne out or justified by the records of the case. How could this board know what facts brought the minds of the court-martial to its conclusions? How could the board tell what evidence had weight and what did not? The record did not give such information, and how could they obtain it? They assume that after the lapse of a short time witnesses become confused, but that after a lapse of sixteen years the confusion ceases and that then their minds become clear.

The whole appearance of this case indicates that it was made up by those who desired to introduce confusion and misconception into it, who knew that the board which was to hear it was composed of gentlemen who were not lawyers, and whose minds consequently, for lack of legal training, would be the more easily satisfied.

It must be remembered that there is not now, nor has there been at any time, a formal charge that the court-martial that found Fitz-John Porter guilty in 1863 was not legally constituted and organized; no one claims that the court did not have jurisdiction of the person and the case. No one should assume that the accused did not have a full and fair hearing; there is no reason to suppose that the court was in any wise prejudiced against him. In fact, some of the members of the court were his intimate friends. Will any one say that they were unskilled in the arts of war or without knowledge of law? Upon what pretense, then is Congress asked to authorize the President to review and set aside the judgment of a court acting clearly within its proper sphere? May we not ask where Congress finds warrant in the Constitution for making itself or the President a court of appeals, with power to set aside judgments of courts sixteen years after final judgment, or, in fact, within any time whatever. If it was a pardon that was sought, the President has substantially unlimited power of pardon for any offense. This power he can exercise on such information as he may by any means acquire, and a commission or court of inquiry is one of the means he may very properly use to obtain such information.

The majority of the Military Committee in their report adopt the report of the board of officers in their findings and add only one or two suggestions; one of which is that it is proper to "consider that it was not only by loyal and zealous service in the late war that General Porter has deserved well of his country, but also that he was thrice brevetted for gallant services on the field of battle in Mexico." *This is well.* That he should have been a good soldier and at one time deserved well of his country no one doubts, but this cannot be pleaded as a justification or excuse for disobedience of orders in time of battle or at any other time, and it must be remembered that the court-martial who tried him knew the facts as to his service in Mexico as well as in the late war for the preservation of the nation, and it is at least to be reasonably presumed that these had their due weight before that tribunal.

We are told by the best authority that one of the apostles was of good repute, and trusted more than any other, up to the time that he proved by his own act his unfaithfulness.

Benedict Arnold was a gallant and brave soldier and very severely wounded in battle, and only a short time before his unfaithfulness was

scovered received the thanks of the then Congress; but when he failed ı his duty to his country he was condemned by all. There are a great any instances cited in history where the bravest and most trusted ave fallen in an evil hour, actuated by prejudice and disappointment. t may be well enough for a proper understanding of what Congress is sked to do in this case to examine the bill accompanying the report in etail.

The first section is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America ı Congress assembled, That the President be, and is hereby, authorized to annul and et aside the findings and sentence of said court-martial, approved by the President anuary nineteenth, eighteen hundred and sixty-three, and published in general orders umbered eighteen, dated War Department, Adjutant-General's Office, Washington, anuary twenty-second, eighteen hundred and sixty-three, if he shall deem it right nd proper so to do.

The judgment of the court-martial that tried Porter, when approved y the President, became a finality. The law provides no means of etting it aside or opening it up. The Executive can no more sit as a ourt of errors over it than he can over the decision of the Supreme Court, nor can that power be now conferred upon him.

Where does Congress find its authority for setting aside the final udgment of a court of competent authority to hear and determine a ause? If the decision of a court-martial, when approved by the Presilent, be final, the Executive having exhausted his authority to set it aside, ıow can Congress confer on the President authority to do that which ıeither he nor that body possesses the power to do?

The second section of the bill provides as follows:

SEC. 2. That in the event of the findings and sentence of the said court-martial eing annulled and set aside, as provided for in the first section of this act, the Presilent be, and is hereby, further authorized to restore the said Fitz-John Porter to the rmy of the United States, with all the rank, rights, title, and privileges to which he ould have been entitled if there had been no court-martial.

This section is not only very extraordinary, but is directly in the face of all precedent, as well as the law now existing, by which every one ave General Porter is to be governed.

Section 1228 of the Revised Statutes provides "No officer of the Army who has been, or may be, dismissed from the service by the sentence of ı general court-martial, formally approved by the proper reviewing authority, shall ever be restored to the military service except by a reappointment confirmed by the Senate."

How can this be done, and by what authority is he to be restored? Not y first obtaining a pardon, and then complying with the law (as above uoted) by a nomination by the President and confirmation by the Senate. But here we have a proposition to restore Porter absolutely to the Army, vithout pardon, without power to set aside the judgment of the court, and vithout nomination and confirmation, as is required by the Constitution, and as is provided by law. Porter is absolutely out of the Army, as much o as any other citizen of the United States, and no power exists to put him into the Army, except by the mode pointed out; that is to say, first y pardon by the President, by virtue of the pardoning power under the Constitution, then nomination by the President and confirmation by the Senate. In such case his appointment would date from his confirmation, and his pay would begin from date of appointment, and not back to date of dismissal from the Army for improper conduct, besides giving him "all the rank, rights, title, and privileges which he would have been entitled to if there had been no court-martial," as this bill does. That

there should be this attempt at this unprecedented legislation in his b half is something that must surprise the thoughtful people of this cou try, and certainly will astonish the many poor and unfortunate offic of inferior rank who have been dismissed the service for slight offen compared with the graver one of which General Fitz-John Porter w convicted.

SEC. 3. The position of colonel, to which the said Fitz-John Porter shall be rest by the action of the President under section two of this act, shall be held by him supernumerary until a vacancy shall occur, when he shall be assigned to the regi to which it pertains; but if the said Porter shall so elect, the President of the Ui States may retire him on the rank of colonel, that being the rank held by him w in service.

Section 3 above, as will be seen, provides for Porter's restoration colonelcy in the Army as supernumerary, to take the first vacan the rank of colonel. This, it will be seen, will be the greatest inju to the officers of the arm of service that such vacancy may occur i they will be prevented from that promotion to which, by the law as now, they should be entitled to for faithful service while Porte undergoing the sentence of a competent court for his gross violati orders and improper conduct in the face of the enemy. But this i all: this section gives him the right to retire on the rank of colonel leaves that to his option. This will be a privilege not accorded to officers of the Army. Retirement is made, under the laws on r ment, for reasons that must be made apparent to a board of of convened under the law for that purpose or upon the existence of tain facts upon which the President may act in his discretion. are these extraordinary privileges to be granted to this man?

The fourth and last section is as follows:

SEC. 4. That in the event of the finding and sentence of the said court-m being annulled and set aside as provided for in the first section of this act, then be paid to the said Porter the pay and allowances of a major-general on the r list of the Army from the twenty-eighth day of January, eighteen hundred and three (date of last payment), to the thirty-first day of August, eighteen hundre sixty-six, both dates inclusive, and the pay and allowances of a colonel on t tired list of the Army, entitled to credit for twenty years' service from the first Septembber, eighteen hundred and sixty-six, to the date of the passage of this ac the entire sum or sums so estimated and determined shall be paid to the said Port the Secretary of the Treasury, immediately upon the passage of this act; the su quired for the purpose being hereby appropriated from any moneys in the Tre not otherwise appropriated.

This section provides, as will be seen, for paying said Porter the and allowances of a major-general on the retired list of the Army the 28th day of January, 1863 (date of last payment), and pay allowances of a colonel to the date of the passage of this act, gi him a credit of twenty years' service from September 1, 1866. consider this proposition as entirely out of the line of all law and pr dent; we know no reason for it; no such favors have ever been sh before, and why now to Porter? The country will demand good rea for it. We will ask if it is to be done for faithful services. If so, why apply the rule to all others that served their country faithfully, who the service under much more favorable circumstances than Porter? he to have this consideration on account of his having been dishonor dismissed the service? It would seem to be setting a premium on obedience of orders and disloyalty to superior officers.

If Congress shall assume the responsibility of passing this bill ting aside the court-martial in this case, paying Porter from date o missal, and placing him on the retired list at his own option, which give him more advantages than has ever been given to any one b

is, were guilty of visiting unwarranted punishment upon General
r, and Congress is asked to affirm the judgment of the three and
iate the judgment of the nine. If the judgment of a court-mar-
of no validity and can be set aside, what terror can the court be
guilty, and what protection to the innocent? Suppose Porter
een acquitted, and fifteen years afterwards some unauthorized
should conclude the sentence to have been wrong, that he ought
e been convicted and dismissed the service, would Congress set
the judgment of the court, and by resolution dismiss him from the
e? If Congress can set aside the judgment of the court in one
why not in the other?

t Congress possesses no such power in either case will be at once
ent when the elementary principles of the law are considered. It
not be rashly asserted that because these proceedings were had
the laws of war they can be recklessly disregarded in time of
. The laws of peace and war bear a relative and just relation to
ther; as in time of peace the law is the paramount authority which
ves the order and well-being of society, so in time of war its laws
e paramount authority which preserves the order of the nation and
ts and perpetuates its existence. There is a common law of war
re is a common law of peace; both come from real necessities and
he same source.

common law is the result of the experience, necessities, customs,
ecisions of the English speaking races. Martial law, the common
war, is the result of the experience, necessities, customs, and de-
s of all civilized nations. The occasions for the use of martial law
ss frequent and more exceptional than the other, but the sources
ore varied and more universal; for peace is the natural and cus-
y state; war is unusual and frequently unexpected. When a state
r exists martial law comes at once into force, and martial law has
n tribunal as well as its own code.

linary tribunals are insufficient to meet the emergency, and there-
he proper ones are at once constituted, and thus martial law in our
ry, when war exists, being part of the law of nations, is held by
writers to be beyond the Constitution, by others, more advisedly,

in martial law. And thus courts-martial, having their origin i
cessities of war, and as exponents of the jurisprudence of that
affairs, are recognized and determined as courts of special a
jurisdiction by our statutory enactments. The judgment and
of a court-martial, properly constituted, on matters within its
risdiction, when once approved by competent authority, is at
final, and there exists no authority which can review or annu
is as full of binding effacy and as thoroughly entitled to re
the judgment of the Supreme Court, within its proper jurisdict
it is the final judgment of the highest court known to the syste
which it administers. No future commander-in-chief can annu
of his predecessor in confirming such finding; no act of Cong
declare void the proceeding and sentence, especially when the c
of war has ceased, and the condition of peace has returned. W
military tribunal has perished with the state of war, it is inco
for any authority, or all authorities combined, to re-examine
view to annuling the former sentence. The President has no p
revoke and annul a sentence—treat it as if it had never been-
store to rank, place, and pay to date from the time of the loss
of these; nor can Congress confer such a power on the Preside
by direct law commanding him, or by indirection authorizing h

The first is direct contravention of his Constitutional freedom o
the second is to reverse by law the final decision of a compete
and to give rank and pay where there has been no service to ea
the rank or the pay. The one would be usurpation on the Const
rights of the executive, the other equal usurpation on a recog
diciary.

By the sentence of a thoroughly competent court having
and exclusive jurisdiction, approved by the President as com
in-chief, in time of flagrant war, he was condemned to be cashi
to be forever incapable of holding any office of trust or profit
President believes that this action was erroneous, he can par
restore him from the date of his dismissal would be a gross w
those who continued in service, and is giving in an indirect and i
manner a gratuity not earned, by way of compensation for a
erroneous verdict. It is a principle of American doctrine that
of an officer is for service rendered in that office, and the prese
osition is a dangerous innovation on that sound principle.

If Mr. Johnson and General Grant each on full consideration
to take any steps in this case in ordering a board or otherwis
doubtless for good reasons. The reasons on which this extra
and dangerous action is now predicated are wholly unusual in a
Newly-discovered evidence may be a good ground for a new
the motion must be made to the tribunal authorized to allow
ing and must be made in time, and the evidence alleged to be di
must be material and pertinent to the issue. This motion is ma
years after trial, when the court and the condition of war h
long ceased to exist. When there is no longer a tribunal com
hear and decide, when the witnesses and actors are many of th
or out of sight, when it is known to be impossible for the Unite
to produce important witnesses. The pretended evidence, n
covered, has not the shadow of relevancy to the offense charge
it had been introduced would have been no answer to the charge
inal acts consist in intent and action combined. The intent o
to the act is judged by the facts known to the party charged an
what he did not and could not know. Porter is charged with

ır the proper execution of the part assigned to him. Success
e was not in his decision. His duty was simple and clear, to
romptly, and fight vigorously, as commanded by his superior.
either; and he is no more justifiable than a captain or sergeant,
ıl or a private, who disobeys the lawful order of his superior.
ew feature in military law that a subordinate may try to show,
ause for disobedience, that the movement ordered, even if car-
would not have been a success. This is the introduction of
and guess-work as matter of evidence in defense. The inex-
et reasonable severity of military law compels obedience, and
onsequences to him who gives the order. Any other rule de-
possibility of combined operations on a large scale, and subjects
rategic movements, always difficult in themselves, to the peril
tulance, conceit, or lack of information of subordinate officers.
ıg could more clearly set out the duty of subordinate officers
done in the order of General Washington on the 10th of Oc-
77, from Army headquarters at Taomensing. He said: "It is not
officer to know the principles upon which every order is issued
dge how they may or may not be dispensed with or suspended,
duty to carry them into execution with the utmost punctuality
tness. They are to consider that military movements are like
ing of a clock, and they will go quickly, regularly, and easily
officer does his duty, but without it be as easily disordered,
neglect from any one, like the stopping of a wheel, disorders the
The general therefore expects that every officer will duly con-
importance of the observation. Their own reputation and the
y owe to their country claims it of them, and earnestly calls
m to do it." It has been and should be considered the first duty
l soldier to obey orders strictly; for disobedience there can be
excuse. A good soldier will always be in readiness to march
and of the enemies' guns. We here call special attention to the
brief of authorities, decisions of the Supreme Court of the
tates, as well as many of the State courts, bearing directly on
tions presented by the bill referred to.
ss may "constitute tribunals inferior to the Supreme Court."

could be proved a "deserter" only by a record of a court-martial. *ber* v. *Reilly*, 53 *Me.*, 112; *State* v. *Symonds*, 57 *Me.*, 149.)

When civil tribunals have passed judgment, it is clear that the l ture cannot interfere to reverse or annul that judgment. In *St Fleming*, 7 *Humph.* (*Tenn.*), the legislature undertook to discharg resolution a person charged with the offense of selling liquor con to law. *Held*, they had no such constitutional power. The court

The powers of the State of Tennessee are vested in legislative, executive, an cial departments, each separate and distinct from the others, with their powe duties well defined by the Constitution, and by which each is kept within its priate sphere of action. The legislature can make the law, but the court m pound and execute it, with the aid of the executive, when his action becomes nec for that purpose. The legislature has no power to interfere with the admini of justice, either civil or criminal, in the courts. A resolution that a criminal o of criminals shall be discharged by the court is, then, necessarily an assump power not warranted.

After conviction the governor may pardon, but before conviction the attorne eral and the court are the only power that can discharge without acquittal, a by the *nolle prosequi*.

We are, therefore, constrained to hold to the resolution under which these ants claimed their discharge is void for want of power in the legislature to pas

In *De Charteleux* v. *Fairchild*, 15 *Penn. Stat.*, 18, the legislature of sylvania undertook to grant a new trial in a case which had judicially determined. The supreme court held the act void. G C. J.:

If anything is self-evident in the structure of our government, it is that t islature has no power to order a new trial, or to direct the court to order it, eit fore or after judgment. The power to order new trials is judicial, but the p the legislature is not judicial. It is limited to the making of laws; not to position or executing of them. The functions of the several parts of the gove are thoroughly separated and distinctly assigned to the principal parts of it, t islature, the executive, and the judiciary, which within their respective depar are equal and co-ordinate. Each derives its authority mediately or immediatel the people; and each is responsible, mediately or immediately, to the people exercise of it. When either shall have usurped the powers of one or both of lows, there will have been effected a revolution, not in the forms of the law, action. There will then be a concentration of the powers of the governme single branch of it, which, whatever may be the form of the constitution, wi despotism—a government of unlimited, irresponsible, and arbitrary rules. It to say the authority of each branch is defined and limited in the constitution, i be not an independent power, able and willing to enforce the limitations. Exp proves that it is thoughtlessly but habitually violated."

In *Denny* v. *Mattoon*, 2 *Allen*, 378, it is said:

It is the exclusive province of the courts of justice to apply established pri to cases within their jurisdiction, and to enforce their decisions by rendering jud and executing thereby suitable process. The legislature have no power to i with this jurisdiction in such manner as to change the decision of cases pending courts, or to impair or set aside their judgments, or to take the case out of the course of judicial proceeding. It is on this principle it has been held that the ture have no power to grant a new trial or direct a rehearing of a cause which h been judicially settled. The right to a review, or to try anew facts which ha determined by a verdict or decree, depends on fixed and well-settled principles it is the duty of the court to apply in the exercise of a sound judgment and dis These cannot be relegated or governed by legislative action. A portion, as ac legislature cannot set aside or annul a judgment or decree. This is the highe cise of judicial authority. Lord Coke calls judgment and execution "the fru law."

To vest in the legislature the power to take them away, or to impair their e the rights of parties, would be to deprive the judiciary of its most essential p tive. It could then no longer finally adjudicate and determine the rights of li The will of the legislature would be substituted in the place of fixed rules an lished principles, by which alone judicial tribunals can be governed. The p correct errors and reverse judgments, which in the strictest sense of the w always been deemed essentially judicial, would be transferred to the leg

also Attorney-General *v.* Brown, 1 Wis., 522.

aley *v.* Clark, 26 Ala., 439, an act was passed by the legislature nd to the sureties of a clerk of court $500, which they had paid e the clerk had failed in his duties, &c. The constitution of na gave the governor the power to remit fines and forfeitures, e case shows, among other things, that what the legislature can- directly, they cannot do indirectly. For instance, the sentence rt-martial deprives Porter of pay, and if Congress cannot annul tence so as to remit this penalty, they cannot do the same thing tly by voting him a sum for pay.

court say (26 *Ala.*):

> ower to pardon offenses, except in cases of treason and impeachment, and to nes and forfeitures, being, as we have seen, confided by the fundamental he executive branch of the government alone, this power is virtually denied ther department, and cannot, therefore, be exercised by the legislature. The stion is whether the act referred to is, directly or indirectly, an attempt to re- e; for if it be so, the mode or manner in which it is done is entirely imma- It is the right which the constitution denies, without reference to the mode it may be exercised. We regard the act in question as a donation to the par- ein named of the amount of the fine which had been imposed upon them in ce of law, upon making proof to the treasurer that they had paid it. A par- othing more than relieving one from the penalty which the law has placed er, and the effect of restoring him to his condition before conviction. npossible for any one to read the first section of the act without seeing that its is identical with a pardon.

first section is as follows:

> he treasurer of Marion County be, and he is hereby, directed to pay Allen John M. Frederick, John T. Sanders, and William Warner, the securities of uglass, late clerk of the circuit court of Marion County, the sum of $500, that e amount of a fine which they have paid for said Douglass in consequence of uglass having failed to comply with the requisitions of the second section of of 1834.

court proceeds:

mitted by the governor; it is conceded that the legislature has not the authority to remit, but, after payment, it is insisted that body may legitimately refund the fine. To sustain the position would be to allow one department of the government to trench upon the powers of another and to defeat the purpose which the Constitution contemplated in confining the pardoning power to one branch of the government by permitting it to be indirectly exercised by another. (*See Cooley's discussion, Const. Lim.*, ch. *V, p.* 87, *et seq.*, *P. G. O.*, *p.* 91. *In State* v. *Sloss*, 25 *Mo.*, 291.)

The legislature passed a law the effect of which was to release all persons who stood indicted for a certain offense. The law was declared unconstitutional, as being an attempted exercise of the pardoning power, which belonged alone to the executive. In *ex parte Garland*, 4 *Wall.*, 380, *the S. C. U. S.*, say:

The pardoning power of the President is not subject to legislative control. Congress can neither limit the effect of his pardon nor exclude from its exercise any class of offenders. (*U. S.* v. *Wilson*, 7 *Wheat.*, 159. *Pardoning power in President, Const.*, art. *II*, *sec.* 2. *Knolte* v. *U. S.*, 14 *Am. Law Register* (*new series*), *p.* 367.)

If this Porter had been tried by a civil tribunal, Congress would in no way interfere to set aside the judgment, directly or indirectly, for the three departments of government are distinct, legislative, judicial, and executive, and one cannot interfere with another.

But it is said that a court-martial does not belong to the judicial department of government, because article 3, section 1, of the Constitution says that the "judicial power" shall be vested in a Supreme Court and such inferior courts as Congress may provide, and the judges shall hold office during good behavior and have a fixed compensation; and the officers of a court-martial are not such.

Cauter's Case, 1 *Pet.*, 511, is cited to show that courts-martial are not "Constitutional courts," but legislative courts under the Constitution, page 546; also the following: *Ex parte Vallandigham*, 1 *Wall.*, 243; *People* v. *Daniel*, 50 *N. Y.*, 274; *Cooley's Const. Lim.*, 109 (*note*), 4th ed.; *Opinions Attorney-General*, p. 448.

In *Cauter's Case* they are held to be "legislative courts" under the Constitution and that they have all the attributes of courts. If this be so can their proceedings be reversed by Congress? Can the judges of Territorial courts be so reviewed? And they are legislative courts. Congress may "constitute tribunals inferior to the Supreme Court" (Constitution, article 1, section 8), and if these tribunals do not come under the head of "judicial," do they any the less have the attributes of courts"?

It may therefore safely be held that when a statute upon a particular subject has provided a tribunal for the determination of questions connected with that subject, that the jurisdiction thus conferred is exclusive unless otherwise expressed or clearly manifested.

Dyrees vs. Hoover, 20 *How.*, *p.* 81:

But the case in hand is not one of a court without jurisdiction over the forms and rules of procedure enjoined for the exercise of jurisdiction. It was regularly convened, its forms of procedure were strictly observed as they are directed to be by the statute, and if its sentence be a deviation from it, which we do not admit, it is not absolutely void.

Whatever the sentence is or may have been, as it was not a trial by court martial taking place out of the United States, it could not have been carried into execution but by the confirmation of the President had it extended to loss of life, or in cases not extending to loss of life, as this did not, but by the confirmation of the Secretary of the Navy, who ordered the court. And if a sentence be so confirmed, it becomes final and must be executed, unless the President pardons the offender. It is in the nature of an appeal to the officer ordering the court, who is made by the law the arbiter of the legality and propriety of the court's sentence. When confirmed, it is altogether beyond the jurisdiction or inquiry of any civil tribunal whatever, unless it shall be in a case in which the court had not jurisdiction over the subject-matter or charge, or one in which, having jurisdiction over the subject-matter, it has failed to observe

the rules prescribed by the statute for its exercise. In such cases, as has just been said, all the parties to such illegal trial are trespassers upon a party aggrieved by it, and he may recover damages from them on a proper suit in a civil court, by the verdict of a jury.

The decision of a court-martial stands upon the same ground that the decisions of any other court under like circumstances.

The constitutionality of the acts of Congress touching Army and Navy courts-martial in this country is not an open question; the subject has been fully considered more than once by the Supreme Court and their validity affirmed in fact, but recently, at the October term, 1879, in the case of ex parte Alvin B. Read. The court say in their conclusion, 'The court had jurisdiction over the person and case. It is the organism provided by law and clothed with the duty of administering justice in this class of cases. Having had such jurisdiction, its proceedings cannot be collaterally impeached by any mere error or irregularity, if there were such committed within the sphere of its authority; its judgments, when approved as required, rest on the same basis and are surrounded by the same considerations which give conclusiveness to the judgments of other legal tribunals, including as well the lowest as the highest, under like circumstances; the exercise of discretion, within authorized limits, cannot be assigned for error and made the subject of review by an appellate court.'

Confronted thus by the unerring language of the law, with all its precepts and mandates speaking against the validity of the bill, we cannot remain silent and ignore their teachings.

We are bound by every obligation to show, as we have done, even at extreme length, that this bill finds no sanction in law, in justice, in fact, or in public policy. We have not cared to inquire into the motives which actuated the attempted appeal by the appellant or those in his behalf. We have only dealt with the results which will ensue as they appear to us plainly forecasted if the bill becomes a law. We have striven to point out to those who may be the warmest in their zeal for General Porter that this measure is so palpably wrong in its spirit and its scope that even they, regarding the law more than their friendships, should at once unite in asking that it may be rejected. The success of this measure would be a misfortune to the country; and no source of danger is more insidious, its progress more rapid, and its corruption more sure than that legislation which is in the interest of private favoritism at the expense of public justice.

We do not feel called upon to make any charges. We indulge in no recriminations. We simply say that we yield implicit respect to those pure men high in authority who examined this record and approved the findings, and we will not reflect upon their memory so far as to impugn their judgment or to doubt their honesty. It is because of the persistence with which this review has been urged and of the weighty consequences that attach to it that we have been led to such elaborate examination. If our minds could have conscientiously reached any other view it would have been more agreeable to ourselves, but the dictates of law and of reason were not to be slighted.

In conclusion, therefore, impelled by all the foregoing reasons, we, the minority, urgently and sincerely protest against the passage of the proposed bill.

It may be that our action may apparently place us in a position of antagonism to one who undoubtedly, at a former period of his history, rendered meritorious service as an officer. But, by every remembrance of gratitude and loyalty to those whose faithful devotion preserved their country, we must protest against this stupendous reward to him who, the judgment of the court say, faltered in duty and failed in honor in the hour of peril and climax of battle.

We protest because the precedent sought to be established would

prove a source of unknown evils in the future. It would stand be after as an incentive to military disobedience in the crisis of arms, a as an assurance of forgiveness and emolument for the most danger crime a soldier can commit.

We protest because every sentence heretofore executed upon subo nates in the service for minor offenses would stand as the record o cruel tyranny if this supreme crime is to be condoned and obliter and its perpetrator restored to rank and rewarded with pay.

We protest because the spirit of patriotism, upon which alone must rely in the nation's need, hereafter will be shamed and subdued inflicting this brand of condemnation upon those patriotic men who gan and conducted the original proceedings, and sanctioned the origi sentence, as well as upon others equally patriotic, who affirmed the s tence and refused to annul its just decree.

We protest because the money appropriated by this act will be mo drawn from the Treasury in furtherance of an unauthorized purpose, a in defiance of the rules of law.

We protest because the bill is loaded with startling innovations. overrides statutes, and vests the Executive with unconstitutional pow It subverts the order of military promotion, and postpones the wor to advance the unworthy. Its tendency is to applaud insubordinati Its effect will be to encourage dereliction of duty. The soldier and civilian will alike feel its baneful influence; for such an error, if once p mitted to creep into our system of laws, can never be eradicated. Up every motive for the public good, without one impulse personal to o selves against the subject of the bill, with every proper remembrance the past tempered by every proper conciliation in the present, but lo ing steruly at the inevitable consequences in the future, we make t protest against this enactment as a duty we owe to the country, wh we cannot and would not avoid.

Respectfully submitted.

JOHN A. LOGAN
P. B. PLUMB.

C

IN THE SENATE OF THE UNITED STATES.

ɪUARY 10, 1880.—Ordered to be printed to accompany Report No. 158.

ɪNSIDE, from the Committee on Military Affairs, submitted the following

VIEWS OF THE MINORITY:

ndersigned, member of the Committee on Military Affairs, begs say that he dissents from the report made by the majority of mittee upon the Fitz-John Porter case, so called. He agrees with ɪority report of Senators Logan and Plumb in many of the le- ɪts made by them, and especially in their views as to the dan- ɔurse recommended by the majority.

inks that the interference by Congress in the sentence of a court- which has been duly found and promulgated, is a most dan- nterference, to be resorted to only under extreme circumstances, ı in the most careful manner.

ɔo thinks that Congress has no right under the Constitution to ı a man into office, as the right to appoint officers is vested in sident of the United States by the Constitution, by and with the ınd consent of the Senate, except that "Congress may by law appointment of such inferior officers as they think proper in- sident alone, in the courts of law, or in the heads of depart-

Congress has the right to authorize the President to re-open the General Porter, upon his own application, and order a new court ɪurpose of granting him a new trial, which court shall consider eedings of the original court, and such new evidence as may be ɪl by the government or General Porter, and make its decision the undersigned has no doubt. He believes that the only limit- ɪpon the power of Congress over cases arising in the land or rces is to be found in the Constitution itself.

of Congress authorizing a second trial would not be an *ex post* ɔ, because, adopting the general definition laid down by Chief Marshall, it would render no act punishable in a manner in which ot punishable when committed.

ɔould it come within any of the more specific definitions usually by the courts, because—

t makes no innocent act done before its passage criminal.

t makes no crime legally greater than when it was committed.

t authorizes no greater nor any different kind of punishment ɪe law at the time of General Porter's trial affixed to the crimes ch he was convicted.

It does not alter the rules of evidence applicable on the former ı the injury of the offender.

fail to pass—then he will have had no vindication. In fact, it will ad his condemnation. If it should pass in a modified form, then it ca said that he did not deserve the full measure of his sentence, but deserved condemnation of some kind. If it should pass as it been reported by the majority of this committee, and fail to by a substantially unanimous vote, it will be said that for y General Porter has been trying to get action upon this case, never, until this particular period, and under the present pec circumstances, has he been able to get it; and now he gets a bill p without the favorable recommendation of the President, by a si majority of Congress, and in violation of a pretty well-established ciple of the government, that sentences of courts-martial should n annulled by Congress; whereas if a bill should pass this Congre a large vote, such as the undersigned recommends, giving to G Porter a new trial by a court which has full authority to exami facts, whether they appeared before the original court or have bee covered since, and that court acquits him of all offense, and tha tence is approved by the President. then he stands before the w vindicated man; and surely no good citizen can then justly gains right to the vindication.

It may not be improper to say that the undersigned has for year this same view.

The Schofield board closed its report by saying:

> But it is our duty to say that the indiscreet and unkind terms in which Gene ter expressed his distrust of the capacity of his superior commander cannot fended; and to that indiscretion was due, in very great measure, the misinterp of both his motives and his conduct, and his consequent condemnation.

How the board knew that this indiscretion caused or contributed condemnation is not explained. This positive assertion is som akin to the one made on page 1719 touching the great service G Porter rendered in saving the Union Army from destruction. T dersigned is forced to say that he does not know exactly what woul happened to the Union Army had General Porter not rem quiet all the day of the 29th of August, or had obeyed the given him to attack, because he is not possessed of the high of military intelligence which would enable him to divine exactly the enemy would have done in case General Porter had mad vances, or obeyed the order. The undersigned would be glad to see eral Porter freed from even the condemnation of the board for h spoken in "indiscreet and unkind terms" of his superior comm at a time when his duty to the Republic called for obedience, co tion, subordination, and industry of the highest order. It is very that the opinion of this board of officers has been regarded by a majority of the people of the country as the opinion of a second martial; but it is not so. The whole case before the board was e in the highest degree. The plea of General Porter was made up b nent counsel, who presented it in the most skillful manner. The g ment was represented by a judge-advocate brought into the cas denly, with the obligation resting upon him to look after both sides case. The court was unauthorized to compel attendance of witn and entirely unauthorized to pass any binding judgment. A p individual who would submit to arbitrations like this would, in short time, find himself stripped of all his worldly goods, no matte much of them he might possess. His utter ruin would be but tion of time if he allowed himself to be drawn into such arbitr Should we, as custodians of the public interest, be led into a co

ıtal to army discipline and the public good as the passage of
ıf the majority would lead us?
ırtion of the bill recommended by the majority which gives to
Porter back pay the undersigned cannot concur in, for the
ıat it is a violation of a well-established principle of the Military
ee and of Congress not to allow to officers who have been dis-
nd reinstated pay for the time that they have been out of the

is no reason for not applying to this case a rule which is invari-
ılied to officers of a lower grade than that held by General

A. E. BURNSIDE.

6TH CONGRESS, 2d Session. | SENATE. | REPORT No. 159.

IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1880.—Ordered to be printed.

Mr. GROOME, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill S. 411.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 411) for the relief of Charles W. Rogers, having carefully considered the same, report:

That Charles W. Rogers has the contract for carrying the mail on route number 11105, from Fredericksburg, Va., to Warsaw, Va. That for 10 months, or thereabouts, of the year the steamers on the Potomac and Rappahannock Rivers, on nearly parallel routes, carry a large mail, much of which for about two months of each year is thrown upon the route of the said Rogers. That when, either because of ice or of the necessity of laying up for repairs, the steamers do not run on said rivers, the mail matter on said route No. 11105 is increased from six bushels a week to twenty-five bushels.

That during part of December, 1877, and January and February, 1878, and during part of December, 1878, and of January and February, 1879, mail matter which should have been carried on the Potomac and Rappahannock steamers was not so carried, but was carried over said route No. 11105; and for the failure of the steamers to carry it, the Post-Office Department deducted from their compensation the sum of six hundred and thirty-three dollars.

It is the object of the bill to secure the payment to the said Charles W. Rogers of the amount so deducted from the compensation of the steamers.

As the contract of the said Rogers with the Post-Office Department for carrying the mail over said route No. 11105 requires him "to transport the whole of said mail, whatever may be its size, weight, or increase during the term," and as, if he did not actually know, he could in the opinion of the committee have readily ascertained before entering into the contract, that the condition of affairs upon which he bases his claim for relief was likely to exist during part of the winter months of each year, the committee do not consider him entitled to relief.

They therefore recommend the indefinite postponement of the bill.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 160.

IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1880.—Ordered to be printed.

Mr. VOORHEES, from the Committee on Finance, submitted the following

REPORT:

[To accompany bill H. R. 2188.]

The Committee on Finance, to whom was referred the bill (H. R. 2188) for the relief of Thomas Kearney, late collector of customs for the district of Corpus Christi, in the State of Texas, have had the same under consideration, and submit the following report:

In the year 1870, Kearney, as collector of customs for the district of Corpus Christi, left that place on the 21st of April, under instructions from the Secretary of the Treasury, to collect from his deputies the several amounts in their hands belonging to the government. His only practicable mode of conveyance was by ambulance, and he had hired one for the purpose, with four horses, for the necessary changes, that he might be able to proceed with all reasonable dispatch. The danger of traveling with money or other valuable property along the Mexican frontier rendered it prudent and necessary that he should have a suitable military escort for the protection of the specie to be received and carried by him, and, on application to Colonel Anderson, commanding Fort McIntosh, he was, by order of the War Department, furnished with a guard of six men, under command of Sergeant Philip Conover, of Company C, Fourth United States Cavalry.

This guard, with the proprietor of the ambulance and his driver, and two merchants of Corpus Christi, comprised the parties who were connected with the collector at the time of the robbery hereinafter referred to, in consequence of which, and the loss under it, relief is sought.

Kearney had visited several places where his deputies were located, and had received from them, in gold coin, $12,470.50, and in silver coin $340, in all $12,810.50, belonging to the government, which he had packed and securely locked in strong boxes, which he carried in said ambulance, in which he rode and slept. He had also in gold $3,240, which he had received from private parties for the purpose of safe transit to Corpus Christi.

On the evening of May 5 the party encamped for the night one and a half miles from the Rancho el Radado, at a place selected by the sergeant of the guard. In the morning the sergeant ordered all his men, excepting one private by the name of Jackson, to take all the horses of the guard except their own to the rancho to be watered, and the driver of the ambulance also took the ambulance horses there for the same purpose, leaving no persons in the vicinity of the ambulance except the collector and the proprietor of the ambulance.

Soon after they had all left, Sergeant Conover and Private Ja seized the pistols of the collector and the owner of the ambulance with loaded carbines presented at their heads, demanded the keys boxes, and compelled them to stand disarmed at some distance fro ambulance while they opened the boxes, took from them the amounts, and immediately mounted their horses and rode rapidly

The alarm was given as soon and extensively as possible, and made to organize an efficient pursuit, but the men were all unacqu with that section of the country and it was abandoned as impract A reward of $1,000 was offered by Kearney and $600 by the owi the private coin for the apprehension of the perpetrators of the ro but no traces of them could be found. The Treasury Departme immediately notified of the particulars of the occurrence, and thing appears to have been done by Kearney that was reasonable the circumstances.

The evidence of Kearney is corroborated by that of all the me of his party and of the two merchants of Corpus Christi who v the ranch at the time, and also by the several deputy collector whom he had received the money in his possession, and the com are of opinion that the robbery and loss were in no degree char to any complicity or neglect of Kearney. He stands charged books of the Treasury Department with the amount of the money and cannot obtain credit for the same, and a just settlement account as collector, without the department has authority to ap amount to his credit.

The committee believe he is justly entitled to relief, and reco the passage of the bill.

ONGRESS, } SENATE. { REPORT
Session. } { No. 161.

IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1880.—Ordered to be printed.

ARLAND, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill S. 527.]

Committee on the Judiciary having had under consideration the 527) providing "that all persons sentenced to imprisonment by ited States courts shall be confined in the prisons of the States n they were tried and convicted," report the same back with the nendation that it do not pass, and for their reasons for such beg leave to submit as a part of this report a letter from the ey-General on this subject to the committee, dated January 10, iz:

DEPARTMENT OF JUSTICE,
Washington January 10, 1880.

Agreeably to your request of the 5th instant, I have the honor to submit my especting the advisability of Senate bill 527 becoming a law.

rincipal provisions of law now existing upon the subject of the confinement d States prisoners are contained in sections 5541, 5542, and 5546 of the Revised s, second edition.

e first two it is made lawful for the court to order that a person sentenced to ment for a period longer than one year, or to imprisonment and confinement labor, shall have his sentence executed in any State jail or penitentiary within rict or State where such court is held, if the use of such jail or penitentiary is by the legislature for such purpose.

n 5546 authorizes and enjoins the Attorney-General to transfer to a suitable penitentiary, convenient to the place of conviction, all persons convicted of y any court of the United States, whose punishment is imprisonment, in a dis- Territory; if at the time of conviction, or thereafter, there shall be no penitenjail suitable or available for the confinement of convicts, he shall designate such confinement, and (sec. 5547) shall contract with the managers for the subsist- d proper employment, and shall notify the court having jurisdiction of the of- the jail or penitentiary where it is intended such prisoners shall be confined. ularly is it provided that the Attorney-General may change in any case the imprisonment when he deems the safe custody, the health, or the humane per treatment of the prisoner require it; but no change can be made by him ground of health or treatment unless the prisoner or some one in his behalf ply.

ese laws provision seems to be adequately made which will secure in every ase that which the proposed legislation would make mandatory in every in-

thin any State or district there exists institutions adapted for the proper em- nt, discipline, and security of United States convicts, such convicts can now be ed thereto, and can serve out their terms within the State of conviction; and it of the court to sentence to such penitentiaries in the State as it deems has always been recognized in correspondence with the judges.

the other hand, the State institutions are not thus suitable or available, sec- 46 well places the remedy which the government must take, either in its own ts or those of the convict.

notive for the bill, expressed in the preamble, is one which, in my judgment, curate in fact. The subject of the confinement and treatment of United States s has received careful examination by humane and careful agents of the depart- and the information obtained from this and other sources developed the fact that y States there were no institutions which possessed the requisites of safe custody holesome treatment. *It was found that in* general there were no regular sys-

tems of employment or accurate and certain rules of government. Often eve ment was not possible, and the prisoner was turned over under the system o out in convict camps, and there exposed to ill fare and excessive and griev

The recent report to the legislature of South Carolina by the superinte surgeon indicates the objectionable character of the treatment under certai tiary systems to which I have alluded.

I transmit a copy of that report, as furnished me by the district attorney Carolina, as a part of this letter.

In addition it was found that the government was paying heavy sums to authorities, and even in cases where such authorities had never confined tl within jail walls, and not only had been at no expense for this formal cu had actually, by hiring out the prisoners to contractors, received very co profit from other than the United States Treasury.

The facilities for punishment of United States convicts were thus very r the different States, and while in some parts of the Union there were man tiaries with well-established means of healthy employment and discipline, there were only such as would practically subject the convict to a punishn excess of his sentence if executed in the older and better managed establish

It has been my wish, as far as possible, to reduce the number of penite which the United States prisoners were confined, as then a proper supervi be maintained over them and their treatment; and they have largely bee in the penitentiaries at Baltimore, Albany, Moundsville (W. Va.), and Detr

It is a matter of great regret that the authorities at Baltimore now dec ceive United States prisoners.

The larger number are confined at present in the penitentiaries at Alban troit.

The terms are such that substantially the only expense to the United Sta of transportation of the prisoners there and of providing them with a tick homes at the expiration of their term of service, together with small sums and clothing to which they are then entitled.

These institutions are recognized as possessing in the fullest degree the fa care and discipline which the best systems present, and being convinced of repeated oversight which officers of this department had exercised, contr duly entered into at the above places.

The agent of the department at frequent intervals visits these prisons, others where prisoners are confined, examines the prisoners apart from th solicits their full confidence as to their life there, in order to correct any a treatment should such be shown to exist.

It had been found that in certain penitentiaries there had been just co ill-treatment, which was corrected. In other instances justice to the prisoner their removal, because such treatment could not be there corrected.

In selecting Albany and Detroit penitentiaries, when prisoners were to b out of their own district, and specially designating them, regard was ha healthful location and the humane and judicious treatment which is believe acterize their discipline.

When the durable structure and thorough appliances for heating the buildin the inmates of these two institutions sleep and labor are known, it is not that the reason of extreme climate, set forth in the recital to the bill, is wel and I have no other evidence that the health of any person has been impair cause.

If at any time it is suggested that, to preserve the health of any prisoner essary to change the place of confinement, authority for that purpose is gi Attorney-General.

I recall the following instances only where requests for a change have bee prisoners: The first, in the case of a prisoner about to be sent from the where he was convicted, and the application was granted by telegraph. T was the application of five persons, United States convicts, sentenced in and serving their terms in the Frankfort penitentiary, to be transferred to s prison.

This was a strong case under the statute, and the request was immediatel and the order of transfer executed by Marshal Crittenden.

I have the honor to furnish the committee with an extract from the mess excellency the governor of Kentucky, in which all sion is made to the sad of the penitentiary of that State.

Very respectfully, your obedient servant,

CHAS. DEVE
Attorney-

Hon. A. H. GARLAND,
United States Senate, Washington, D. C.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 162.

IN THE SENATE OF THE UNITED STATES.

JANUARY 29, 1880.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 56.]

The Committee on Military Affairs, to whom was referred the bill (S. 56) for the relief of Edward Braden and J. W. Angus, respectfully submit the following report:

By an act approved March 3, 1873 (17 U. S. Stat. at L., p. 525), the sum of $100,000 was appropriated for the purpose of erecting "depot buildings, including shops, offices, commissary and quartermaster storerooms, at San Antonio, Tex." No contract was made or work begun prior to March 3, 1875, so that in order that the appropriation should not lapse and be covered into the Treasury, the act of March 3, 1875, "continued and rendered available" the appropriation aforesaid for the purpose originally intended. (See 18 U. S. Stat. at L., p. 418.)

On the 12th of May, 1876, the Quartermaster-General advertised for proposals for this work, which were receivable until 12 o'clock meridian May 31, 1876.

The committee exhibit with this report the specifications for workmanship and materials, which are too long for insertion in this report.

Proposals for this work were, in due form and time, made by Edward Braden, of San Antonio, Tex., and J. W. Angus, of the District of Columbia, partners doing business under the firm-name of Ed. Braden & Co., and the contract was awarded them at their bid of $83,900. On the 7th day of June, 1876, a contract in accordance with said bid and proposal was entered into between Capt. E. D. Baker, captain and assistant quartermaster, United States Army, acting on behalf of the United States, and the said Edward Braden and J. W. Angus in their own right. This contract is exhibited with this report, being too long for insertion.

In this contract said Ed. Braden & Co. agree to erect near San Antonio a stone building, to be known as San Antonio depot, and within the court-yard inclosed by said depot, one stone watch and water tower, and finish and complete the same in accordance with the plans and specifications and notes of Capt. Geo. W. Davis, annexed to said contract, and to form part of it. The material furnished and work done were to be of the quality described in the specifications and notes, and subject to the inspection, approval, or rejection of the chief quartermaster Department of Texas, or such person as he might designate, with full power to said chief quartermaster or agent to reject any material or work not in all respects conformable to the plans and specifications.

There is a further stipulation that the United States, by its authority

aforesaid, shall have full power to make such alterations in, or additions to, the buildings as the chief quartermaster's department of Texas may deem advisable, the nature of such alterations to be mutually agreed on, the rates of payment therefor to be fixed by the Quartermaster-General.

Then follows the mode of payment, which is not in controversy.

Then comes this stipulation: "Art. 5, that it is expressly agreed and stipulated between the parties to this contract that upon mutual agreement it may be changed, altered, modified, or abrogated in whole or in part; but no such change, alteration, modification, or abrogation shall entitle the said Ed. Braden and J. W. Angus to increased rates of compensation over the rates herein specified, except the alteration or modification referred to in last clause of Art. 1 of this agreement. The last clause of Art. 1 grants to the party of the first part (the United States acting by the chief quartermaster Department of Texas) the power to make such alteration in, or additions to, the aforesaid described buildings as he may deem advisable, the nature of such alterations or additions to be first mutually agreed upon by the parties to the contract. The rates of payment therefor to be fixed by the Quartermaster-General." The contract is indorsed, "Approved. M. C. Meigs, Quartermaster General, brevet major-general, U. S. A. War Department, Quartermaster General's Office, July 25, 1876."

The notes of Captain Davis, mentioned in the contract as part of it, are appended to it, but as they do not bear upon any point at issue, are simply referred to.

The specifications appended to and made part of the contract contain as to the walls, on page 2, this clause:

OUTER WALLS.

To commence at top of base course, to be 2 feet 6 inches thick, and carried up with that thickness to the full height of 75 feet; from thence to the top of the tower 1 foot 6 inches thick. To be built of first-class rubble masonry with corners of hammered stone quoins, well bonded and laid in good lime mortar; to show a uniform face on the inside and no projections over 2 inches on the outside; to be carried up plumb and true and all outside joints to be well pointed with cement mortar.

This clause applies to the watch and water tower. In respect to the walls of the principal buildings, this clause appears in the specifications:

All foundation walls to commence at least 18 inches below the natural surface of the ground at its lowest point, provided at that depth a good compact soil is found; if not, the depth must be increased until this soil is reached; to be laid in good cement and lime mortar—one-half cement, one-half lime, and a due proportion of sand—and to be 27 inches thick at its base, which will be of large stone, or of cement and broken stone concrete, and carried up with proper footings, as shown on drawing, to the bottom of the water-table, which is to be 6 inches thick with a wash of 2 inches; between the water-table and the lower course of all walls throughout their entire length a course of slate is to be laid.

WALLS.

All walls above the water-table to be 18 inches thick except division walls of each building, which will be 1 foot thick; to be built of first-class rubble masonry, well bonded, with frequent troughs, and laid in good lime mortar mixed in proper proportions.

It is conceded that the contractors, Ed. Braden & Co., fulfilled the contract faithfully and well.

Captain Davis, the officer under whose immediate supervision the work was done, in response to a call of the Quartermaster-General for report upon the claim of contractors for additional pay, makes his report dated January 14, 1878, and which is also herewith exhibited. This report is upon every item of dispute.

to the item growing out of change of site, &c., the report of Cap- Davis is so clear and concise that the committee transcribe it as ng fully the nature of the claim for $1,181.50 growing out of this e, as follows:

I.—*Changing site.*

reference to this item, I would state as follows:
my arrival in San Antonio, I learned that the lands owned by the United on which it was proposed to build the depot were acquired by gift from the city Antonio. Of these lands there were three donations. The first was uneven ogether unsuited for the purpose. Then the city purchased and gave the gov- t another tract of land lying to the eastward of the first. This has been known ignated as the second donation. Some time in the year 1875 dissatisfaction been expressed by the department commander with reference to the eligibility donation, the city gave still another block of land adjoining the first on the which has been known as the third donation. This was thought appropriate purpose by the department commander, and was reported upon favorably by ner chief quartermaster of the department, Colonel Holabird, and also by ant-Colonel Baird, assistant inspector-general Division of Missouri. I there- arded it as settled that the depot was to be built upon the third donation. I idea that any other location was thought of for it.
e 18th of May, 1876, I forwarded to the Quartermaster-General tracing of plat ands, describing the advantages and disadvantages of each, and sent also a showing profiles by means of which a good impression could be gained as to unt of grading and masonry that would be required.
letter of the Quartermaster-General to the chief quartermaster Department of lated May 25, 1876, acknowledging receipt of mine of May 18, General Meigs, positively ordering the selection of the second donation as a building site, d his decided preference for it, but left the final determination of the question fficers in San Antonio.
y letter of June 21, 1876, to the chief quartermaster Department of Texas, tting abstract of bids for construction of San Antonio depot, and submitting thereon, I stated that "as soon as bidders commenced to make their calcu- they called my attention to several omissions and errors in the specifications. anted information as to the amount of foundation, of grading, number of feet and water pipes, &c."
a view to answering their numerous questions and supplying the needed in- on, I drew up a paper setting forth what I considered to be the true intent and of the Quartermaster-General in reference to the building. * * * A copy en to each principal bidder.
were told that the third donation was the one selected for the building; test- been dug there and the strata exposed. I told them all that, in my judg- he average height of walls, to top of water-tables, would be of an average f 5 feet, and suggested to them to indicate in their bids what height of foun- they proposed to put in, at a named price, and also, what they would charge perch of masonry that might be required in excess of 5 feet. * * *
etter of the Quartermaster-General, dated May 25, relating to the respective ges of the second and third donations or building-sites, was received this morn- he objection to the third donation, that the depot might be cramped for want would vanish if the building covered a space of 529 by 562 feet. * * * If dings must cover a quadrangle of 624 feet square, then the objection that the insufficient would obtain, and the second donation would have to be built If the builders are required to have their rock up to the second donation, they ut in a claim for extra service, alleging that they bid with the supposition depot was to be on the third donation.
e 8th of June, a telegram from the Quartermaster-General was received (copy , marked A). Work on the building was commenced at once. On the 11th of e letter of the Quartermaster-General, of the 8th of that month, to the chief master Department of Texas, was received.
t letter General Meigs said, * * * "I have no doubt that the best site is rly-level portion of high ground on the second donation pointed out in my letter 5th May." * * * Captain Baker, assistant quartermaster, was acting as artermaster of the department at the time of the receipt of the telegram and bove referred to. It was evident that the Quartermaster-General, to whom re charge of the construction of the depot had been committed by the Secre- War, wished the building located on the second donation. In his letter of June referred to, he also directed that the depot be built as originally planned, a quadrangle of 624 feet on each side.
s then decided to give up the original idea as to location, and adopt that pre-

ferred by General Meigs. The contractors were notified of this fact about the 15th of June.

I had expected that they would remonstrate or protest against the change, on the ground of increased cost for transportation, thus preparing the way for a claim for extra payment. They made no objection or remonstrance. Mr. Angus expressed himself pleased with the change. The distance from the site first selected to that finally adopted, is 2,200 feet, and the latter point is about 30 feet higher than the former.

The opening of a shorter road between depot and quarries has been spoken of as a great convenience in connection with the building of the depot ever since the work was authorized. The road would, in all probability, have been built in any event, for the saving in transportation amounted to a considerable per centum of the whole cost.

At the time of change contractors had delivered on third donation 17 loads of building stone, and had used some 5,000 feet of rough lumber in the erection of a temporary shop. This building the contractors afterwards rented for several months, and subsequently pulled down, using the lumber on depot building. The few loads of rock delivered on third donation were afterwards hauled to the second donation and used there. The cost of transportation was about 75 cents per load. The labor expended in erection of shop was about $40. The waste of lumber involved in removal was about 1,000 feet or, say, $35—the market price at the time. The distance to the quarries from present site, via new road, is 2,000 feet less than from first site, by same road, and 2,000 feet greater by the old road (Abat crossing). But assuming that contractors would have used the road via Abat crossing in hauling rock to third donation, and assuming also that they are entitled to increased payment on account of the longer haul made necessary by the change to the more elevated point, then they would, it seems to me, be entitled to be paid the cost of such additional transportation, and not the cost of opening the new road, in which the United States were not concerned, say—

For removing 17 loads of rock, at 75 cents	$12 75
Labor of erecting and removing shop	40 00
Lumber wasted in same	35 00
Transportation of 8,750 perches of building stone an increased distance of 2,000 feet, at 12½ cents	1,093 75
Total	1,181 50

In respect to the claim of $1,500 for additional lumber, the committee submit what is said on that point by Captain Davis, as follows:

III.—*Changing the grade of lumber.*

Article 15 of depot specifications requires "all timber used in the building to be of good pine or oak, free from all knots and defects of all kinds." Article 17 requires that the floors of the office building and verandah shall "be of best quality ¾ seasoned hard pine * * * to be free from all knots or defects." * * * Article 22 requires all shutters and window-frames to be of "hard pine or oak." Article 23 requires storeroom doors to be of "hard pine," and office doors to be of best hard pine. In article 27 roof-sheathing is described as of good "merchantable planks, free from large or loose knots and other defects."

In article 35 all materials are to be of good quality, "and all timber and lumber of the floors and joiner work to be well seasoned."

Article 13 of tower specifications requires that all timber used shall "be of good clear pine or oak, free from knots and defects of all kinds. Article 15 requires floor of watch-room to be of seasoned "hard pine, free from knots and defects."

Articles 17 and 18, that window and door frames in tower shall be of hard pine. Article 19, that roof-sheathing be of "good merchantable plank, free from large or loose knots or other defects." Nearly all the lumber used in San Antonio by builders is procured either from mills located on line of railroad in Eastern Texas, or from mills in Western Louisiana. The lumber obtained from Texas mills is usually knotty, cross-grained, and sappy. It warps and shrinks badly. It is suitable for rough fencing and sheathing. The Louisiana lumber is far better. The timbers hold their place, are stronger, and generally free from knots. I have permitted the use of Texas lumber in roof-sheating, and a small amount in studding, &c. Have required better lumber for framing, finishing window and door frames, and shutters. The contractors in observing my requirements have not, as I understand, done more than they were obliged to under the contract.

A careful consideration of the specifications constituting part of the contract leads the committee to conclude that whilst the supervising officer of the work may have been more particular than most employers, and whilst the contractors may well have believed that lumber generally

considered good in San Antonio would have complied with the contract, yet it is clear that two kinds were used there, the one much superior to the other, and no testimony has been adduced showing any special agreement or acquiescence in the use of lumber different from that named in the contract, the committee feel constrained to recommend disallowance of this item.

Now, in regard to the claim of $2,006.17, the committee refer to the very full report on that point of Captain Davis, under Title IV, extra excavation and masonry in foundation, as follows:

IV.—*Extra excavation and masonry in foundation.*

This subject has been fully discussed in former correspondence on file in your office, and a former claim for increased compensation was disallowed by the Quartermaster-General. The only new points bearing upon this claim raised by the contractors are that the original preliminary contract, entered into before the final contract was executed, contained a provision for extra payments for masonry and excavation in excess of 3-feet foundation, which provision was omitted, as is alleged, through clerical error in executing the contract made in accordance with the form sent from Washington. It seems proper that I should explain all the facts and circumstances berring upon this matter. A copy of the proposal of Ed. Braden & Co., for construction of the San Antonio depot, is herewith inclosed, marked B. When the telegram from the Quartermaster-General, dated June 8, 1876, herewith inclosed, marked A, was received, the informal contract alluded to in that communication was drawn up by me. A copy thereof is herewith inclosed, marked C.

As has been explained in the former part of this communication relating to change of site, at this time it was understood the depot was to be built on the third donation, where the ground was quite uneven, and it was evident that an eighteen-inch or even a three-feet deep would not be sufficient. I reported to the Quartermaster-General that the depth of the foundation would be about five feet. In making up the informal contract, I therefore inserted a provision for extra remuneration in case foundations exceeded three feet. When the letter of the Quartermaster-General, of June 8 (inclosing form of contract to be executed), was received (on June 14), the adoption of the second donation as a building site was determined upon. An examination of that locality satisfied me, as it did Mr. Angus, that a three-feet foundation would be amply sufficient, as the surface was quite level and the soil appeared to be firm. Besides, the form of full contract sent from the Quartermaster-General's office gave a full text of the instrument (except as to names, dates, and other unimportant matters) which was ordered to be drawn up. General Meigs had before him when he prepared the form the original proposal of Braden & Co., which contained a statement of the terms under which they would build extra masonry. He wrote that he thought I was in error in supposing a five-feet foundation would be needed, and in the full contract no provision was embraced for a greater depth than the printed specifications and plans required. Had I supposed that three feet depth would have been exceeded, I would have recommended a provision therefor, and I presume the contractors would have insisted on retaining in the new document the clause relating to foundations which was contained in the contract first drawn up, and in their proposal, if they had supposed any question could arise upon the determination of which such a provision could have a bearing. However that may be, the contract as made and signed binds the builders to build * * * provided "at that depth a good and compact soil is reached; if not, then depth to be increased," &c. It would have been just and right to have embraced in the full contract the clause in question, for it was in the informal contract and in their proposal which was accepted. Had it been there they would undoubtedly be entitled to the extra remuneration now claimed.

The amount of that extra excavation and masonry is properly stated in their claim. I kept correct records of all depths, and plan and profile of all the wall trenches with earth surface and depths marked thereon are on file in your office, and also in the Quartermaster-General's office. The amount of masonry and excavation below a horizontal plane, three feet beneath top of water table, is 541 perches of former and 11,267 cubic feet of latter, not including tower.

This claim, it is believed, is fully sustained. The proposals and their acceptance, and the informal contract in pursuance thereof, approved by telegram by the Quartermaster-General, constitute, as the committee submit, the contract. The variation, so material against the contractors in the formal contract, in view of the statement of the Quartermaster-

General in the telegram hereinafter cited, that the formal contract wo not materially differ from the memorandum agreement, and the sa factory explanation of the contractors how they came to overlook material variation, ought not to be taken advantage of by a gov ment claiming to be just. If the proposals and acceptance and cont thereunder would not be sustained in law, which is quite doubtful the words "fraud, accident, or mistake" are far reaching, the commi have no doubt that, in justice, equity, fair dealing between man and and good morals, they would be held to constitute the contract, and telegram referred to would be deemed a complete estoppel aga taking advantage of the material variation. So the committee re mend allowance of this item.

The committee now come to the item, for superior class of maso $8,025.

On this point the committee again extract from the clear, intellig and evidently conscientious report of Captain Davis, as follows:

V.—*Better class of masonry in outside walls than specifications require.*

A former claim by contractors of $2 per perch extra on 5,350 perches of ou walling was made several months since; freely discussed and adversely considere the Quartermaster-General.

I inclose herewith, marked D, a copy of a letter which I addressed to the contra on the 10th of August, 1876, relating to the class of masonry then built and t built. This letter has not heretofore appeared in the former discussion of the cl There is no universal or generally accepted standard or technical definition know me applicable to all countries and conditions, by means of which I can learn what stitutes "first-class rubble-masonry." It is well known that rubble work is alv built of rough stones. The rough projections and angles and weak parts broken sometimes the beds, joints, and faces are scabbled, sometimes not. Sometimes stones are laid up in mortar, again without. Frequently limestone and sands are found in such strata that, as it comes from the quarry, with slight hammering, cellent walls can be built. I have seen very good rubble walls laid up (in mortar cobbles and bowlders gathered on the hillsides, a hammer never having been used the construction. There are probably some hundreds of thousands of perches of r ble masonry walls in and about San Antonio, some of which are recognized here first-class, and with a view of illustration, with a former communication relating this subject, I forwarded to Washington, through your office, a photograph of a cently built wall of rubble, and of the best of its class in the city, and to illustrate t definition of the word as applied in San Antonio masonry, compared the work on t depot to that shown in the photograph. General Meigs said the comparison might well be made of with jacals as with the bad masonry of partition walls of stores. still think my comparison was pertinent, for I was discussing structures of stone, a not huts built of sticks, reeds, grass, and mud. It is unquestionably a fact that t contractors supposed when they undertook the contract that the first-class rubb work of the building was to differ in no essential respect (except that exterior fa of stones in depot walls might be left with two-inch projections) from the many hu dreds of examples of walls of a similar class in the city, all built with stone of t same kind as were to be used for the government. I did not insist on perpendicu joints and horizontal beds, but the stone was of such incongruous shapes that no c contact could be secured, unless entire surfaces were chopped off with the ax-e edge of the hammer, and the easiest way to secure this result was to square the st on its face and make joints and beds parallel. It therefore happens that upon face the wall appears to be built of squared stones, the faces pitched or scabbled, left rough. The building of such walls was new in San Antonio; the masons did understand it, and the contractors were inclined to think I had exceeded my autho in requiring them to build thus. Such masonry undoubtedly costs fully $1 more perch than that which is denominated first-class rubble in San Antonio.

The largest item in the claim of Ed. Braden & Co., the contract is this item of $8,025, for masonry claimed by them to be supe to that required by the contract, which is first-class rubble maso This depends on these propositions: 1st. What is first-class ru masonry? 2d. What kind of masonry was required by the office charge? And did the contractors in fact furnish masonry superio

that named in the contract? If yea, then what is the reasonable difference between that contracted for and that furnished?

The official statement of Captain Davis, heretofore quoted, shows—

> That there is no universal or *generally accepted* standard or definition known to me, applicable to all countries and conditions, by means of which I can learn what constitutes "first-class rubble masonry."

See p. 14 of his report.

Without technical definition or generally accepted meaning for "first-class rubble masonry," it is fair to assume that the parties to the contract meant that the "first-class rubble masonry" contracted to be done should equal the best rubble masonry as understood where the contract was entered into and where the work was to be done, to wit, at San Antonio, Tex. Captain Davis says (p. 15 of his report):

> It is unquestionably a fact that the contractors supposed, when they undertook the contract, that the first-class rubble-work of the building was to differ in no essential respect (except that exterior faces of stones in depot walls might be left with 2-inch projections) from the many hundreds of examples of walls of a similar class in the city, all built with stone of the same kind as were to be used by the government. I did not insist on perpendicular joints and horizontal beds; but the stone was of such incongruous shape that no close contact could be secured unless entire surfaces were chopped off with the ax-like edge of the hammer; and the easiest way to accomplish this result was to square the stone on its face, and make joints and beds parallel. It therefore happens that upon its face the wall appears to be built of squared stones, the faces pitched or scabbled and left rough. *The building of such walls was new in San Antonio;* the masons did not understand it, and the contractors were inclined to think that I had exceeded my authority in requiring them to build thus. Such masonry undoubtedly costs fully $1 more per perch than that which is denominated first-class rubble in San Antonio.

It is clear to the committee, not only from the statement of Captain Davis, but from photographs presented to the committee of first-class rubble walls as understood in San Antonio, and of the work done by the contractors, that the work required and done is far superior to that contracted to be done. Captain Davis (on p. 15) says that in attempting by the photographs to illustrate to General Meigs the difference between rubble masonry understood in San Antonio to be first-class and that done by these contractors, General Meigs said, "The comparison might as well be made with jacals as with the bad masonry of partition walls of stores." Captain Davis very pertinently adds, "I still think my comparison was pertinent, for I was discussing structures of stone, and not huts built of sticks, reeds, grass, and mud." The remark of General Meigs is a complete concession of the point made by the contractors that their work was far superior to that required by the contract, and it is clear that they were required by the officer in charge to make it so.

Now, as to the item for change of roof. More was done than required by the contract. Whilst the contractors (see p. 16) suggested the change, the officer in charge consented to the arrangement, trusting to General Meigs to allow something for it. On this item the board, whose proceedings are hereinafter set out, appointed to consider the claim of the contractors to extra compensation, say as to this item, $1,335.72, that of the original claim, $1,535.72, the Quartermaster-General has already paid $200, thus recognizing the equity of some claim. They say this was done at an extra cost of $1,535.72, and $200 having been paid, if the claim is allowed, $1,335.72 is reasonable and just. It seems to the committee that a man should not stand by and be silent when he should speak, and then be heard when he ought to be silent. The government stood by and let the work go on, got the contractors' time and material, and ought to pay for it. This covers the items, all of which are deemed

just and reasonable, with the exception of the item of $1,500 for usi a superior grade of lumber to that mentioned in the contract. A ri construction of the contract is against them. It is not recommended Captain Davis, and whilst the board think the claims equitable, no fa are given, and it was not submitted for arbitration or for their judgm Captain Davis, on the item of superior masonry, says the *differenc cost* is fully $1 per perch; the contractors put it at $2 per perch. board, consisting of one man selected by the chief quartermaster of Department of Texas, one man, the leading master builder of San tonio, by the contractors, and the third by these two, after a thoro investigation and with full knowledge of the work done, put it at $ per perch, and the committee has adopted that as just. General on the same point, in approving the proceedings of the board, says government has secured a much better style and quality of work is found on any stone building ever erected in this town, perhaps cheapest job of the sort ever done by the government, and, accordin the wording of the contract as to rubble work, better and much expensive than the contract called for."

Captain Davis says at the close of his report:

In conclusion, I would state that as the contractors have carried out the co faithfully (losing from $5,000 to $10,000 on the job), having manifested a dispo at all times to acquiesce in all demands made upon them, even though these de sometimes were thought unfair, and a compliance with them worked against interests, they are entitled to as much consideration as can be legally and equi shown.

The items which the committee believe just and equitable aggre $12,548.39, and they therefore report the Senate bill 56 back with amendments shown on the face of the bill, and, as amended, recom that the bill do pass.

The committee append hereto some of the documents used in arri at their conclusions not sufficiently set out in the body of this repo

EXHIBIT A.—*Proposals of E. Braden & Co.*

SAN ANTONIO, *May* 31, 1

To the QUARTERMASTER-GENERAL:

SIR: We propose, according to the advertisement annexed, to furnish all ma and perform all labor required for the building of the depot at this place, as follo

To excavate to the depth of three feet below the natural surface (the specifica say 1 foot 6 inches), furnish and lay a supply pipe from the engine, furnished an by United States, of 1,300 feet; also a waste pipe, from cistern, of 350 feet, fo sum of $83,900.

If Outcall's elastic iron-joint roof is adopted, deduct $1,500; if slate is used $3,368.

If extra excavating is needed beyond the three feet, add 1 cent per foot; an mason work extra, in cement mortar, add $3.50 per perch.

If the plan submitted by Captain Davis is adopted, deduct from the first-a sum $10,000. The sand to be used for the masonry is the Alamo sand or its equal work to be done as per plans and specifications, and to the satisfaction of engin charge.

Yours, very respectfully,

ED. BRADEN & C

A true copy.

BENJ. C. CARD, *Quarterma*

Annexed advertisement—Proposals for construction of San Antonio depot.

QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., May 12, 1

Sealed proposals, in triplicate, with a copy of this advertisement attached w are invited and will be received at the office of the Quartermaster-General, Washin

nd of the chief quartermaster Department of Texas, until 12 o'clock m., May
, for furnishing material and work for the construction of the San Antonio
master's depot.
and specifications of the work, and full description of the same, can be seen
mined upon application at the office of Quartermaster-General, Washington,
hief quartermaster Department of Texas, San Antonio, Tex., and also at the
uartermaster's offices in New York, Philadelphia, Saint Louis, and New Orleans.
ate bids for the different materials and for the different parts of the work will
dered, as also general bids for the whole of the work and materials.
forms of proposals, giving full information as to the manner of bidding, con-
:o be observed by bidders, and terms of contracts and payment, will be fur-
n application.
opes containing proposals should be marked, "Proposals for Construction of
onio Depot," and addressed to the Quartermaster-General's office, Washington,
r to the chief quartermaster of the Department of Texas.

M. C. MEIGS,
Quartermaster-General.

: B.—*Telegram of Quartermaster-General accepting proposals of E. Braden & Co.*

WASHINGTON, D. C., *June* 8, 1876.

:F QUARTERMASTER,
epartment of Texas, San Antonio, Tex.:
W. Angus, of Washington, who was a contractor with the centenial branch of
:e, is the responsible builder on the bid for the San Antonio depot, signed
& Co., award the contract to that firm with good bond of $10,000. Printed
ıd specifications from this office are to form a part of the contract, to which
:ors' assent may be added—the paper of explanations prepared by Captain
If accepted, enter at once into an informal contract, to be replaced on its ar-
a full contract drawn up here, which is merely fuller than the official printed
: and form, but in no essential manner varies from the printed specifications
ns. Make contract at once, before year expires and appropriation is endan-
The contract is to cover the whole work; particulars go by mail to-morrow
ll written contract.

M. C. MEIGS,
Quartermaster-General.

ıl copy:

BENJ. C. CARD,
Major, and Chief Quartermaster Department of Texas.

---

r C.—*Preliminary or informal contract of E. Braden & Co., with notes by Captain Davis.*

CT FOR BUILDING THE SAN ANTONIO QUARTERMASTER'S DEPOT, NEAR SAN ANTONIO, TEXAS.

agreement, made and entered into this 7th day of June, in the year of our
76, by and between Capt. E. D. Baker, assistant quartermaster, United States
ıcting chief quartermaster Department of Texas, and his successors in office,
on behalf of the United States of America, party of the first part, and Edward
, of the city of San Antonio, county of Bexar, State of Texas, and J. W. Angus,
ity of Washington, District of Columbia, who are herein styled the firm of Ed.
& Co., party of the second part, for themselves, their heirs, executors, admin-
s, or assigns,
esseth, That the said parties have covenanted and agreed, and by these pres-
covenant and agree, to and with each other, as follows:
CLE 1. The said Ed. Braden & Co. agree to build, in a thoroughly first-class and
anlike manner, the San Antonio quartermaster depot, furnishing all labor and
ıl required in said building, and according to the printed plans and specifica-
ıereof hereto attached, and in accordance with the requirements of the notes
specifications, signed by Capt. George W. Davis, 14th Infantry, United States
and hereto attached, and to complete the said work within eight months from
e when notice is given by the chief quartermaster of the department that the
ɣ shall commence.
expressly understood, however, that the Quartermaster-General may fix a dif-
:eriod of time for the execution of this work.

ART. 2. That for and in consideration of the faithful performance of the stipulations of this agreement, the party of the second part shall be paid at the office of the chief quartermaster of the Department of Texas, as follows:

For the whole work, if built according to plans prepared in the Quartermaster-General's office—with tin roof, $83,900; with slate roof, $87,268; with iron roof, $82,400.

For the whole work, if built according to plans prepared by Capt. George W. Davis—with tin roof, $73,900; with slate roof, $77,268; with iron roof, $72,400.

If it shall be found that foundations of a greater average depth than three feet are required, the said Ed. Braden & Co. shall be paid therefor extra, at the rate of 1 cent per cubic foot for all such excavation, and $3.50 per perch extra for all such masonry in excess of an average depth of three feet.

ART. 3. It is expressly agreed and provided that the Quartermaster-General United States Army shall have the right to indicate which of the two plans that have been proposed for the depot shall be adopted, and what style of roof shall be used to cover the buildings. It is also agreed that the Quartermaster-General shall indicate the manner in which payments by installments shall be made as the work progresses.

ART. 4. That in case of failure of the said party or parties of the second part to comply fully with the stipulations of this contract, according to the true intent and meaning thereof, then the party of the first part shall have the power to complete the depot either by special contract or otherwise, as the said party of the first part may elect, and the said Ed. Braden & Co. shall be charged for any expense in-incurred by the government in excess of the amount herein provided, such amount to be deducted from any moneys due for previous services, or that may become due afterwards.

ART. 5. That it is expressly understood by the party of the second part, that in conformity to the requirements of section 3737 of the Revised Statutes, neither this contract nor any interest therein shall be transferred to any other party or parties, and that any such transfer shall cause the annulment of the contract so far as the United States are concerned, all rights of action, however, for any breach of the contract by the contracting parties being reserved to the United States.

ART. 6. That it is expressly agreed and stipulated between the parties to this contract, that, upon mutual agreement, it may be changed, altered, modified, or abrogated, either in whole or in part; but no such change, alteration, modification, or abrogation shall entitle the said Ed. Braden & Co. to an increase of compensation over that herein specified. In case the said Ed. Braden & Co. shall be called upon to perform any extra work or furnish materials not covered by the plans and specifications, such extra work or materials shall be paid for only when covered by a written agreement, or unless it has been done upon an order in writing from the chief quartermaster of the Department of Texas. The price to be paid for any authorized work to be approved and determined upon by the Quartermaster-General, United States Army.

ART. 7. It is expressly understood that this contract shall not be so construed as to involve the government in any obligation for the payment of money in excess of the appropriation made by Congress for this object.

ART. 8. It is expressly understood that no member of Congress, officer, agent, or employé of the government shall be admitted to any share or part in this contract or agreement, or shall derive any benefit therefrom.

ART. 9. It is expressly understood that this agreement is made subject to the approval of the Quartermaster-General, United States Army.

In witness whereof the undersigned have hereunto placed their hands and seals at San Antonio, Texas, this 9th day of June, A. D 1876.

E. D. BAKER, [SEAL.]
Assistant Quartermaster, U. S. A.,
Acting Chief Quartermaster, Department of Texas.
ED. BRADEN. [SEAL.]
J. W. ANGUS. [SEAL.]

Witnesses:
C. BOLLINGER.
JNO. R. DUKES.
JOHN G. BOWEN.

Notes on plans and specifications of quartermaster's depot, made for information of bidder by Capt. G. W. Davis, in charge of construction.

A perch of masonry is 25 cubic feet.

Stone in foundations to be from the Grey Bank San Antonio Quarries.

Foundations may be built of concrete, using the gravel and cobbles found on building site. It must be washed or sifted clean of all earth or clay.

Rosendale or Louisville cement to be used.

Superfluous earth to be deposited inside the inclosure wherever indicated.

ı-pipes to be of vitrified earthenware, 6 inches in diameter, to extend from the the tower outside the inclosure about 350 feet, more or less.
s in drain-pipe to be made with cement.
ɔing-engine, furnished and set up by the United States, to be located at the point on Alamo Ditch, which is about 1,300 feet from foot of tower. Supply-be of lap-welded wrought-iron, 4 inches inside diameter.
s made with red lead.
ly-pipe to be connected to pumping-engine.
ust-pipe to discharge into drain and be supplied with a plug suited for 2½ inch ɔe.
pes to be laid 2 feet beneath the natural surface.
ugh no stone door-sills are shown on plans, they will in all cases be required.
ıg of watchman's room not required to be plastered, as ceiling of wood is pro-ɔr.
[-beams to support tank should be 12 feet long.
Birmingham gauge-boiler plate to be used in making tank for tower.
ıppropriation for this work is limited, and if its cost should exceed the funds for its construction, a reduction will be needed in order to bring it within the iation.
rs are, therefore, invited to submit their proposals for storehouses and wagon-ndicating a price for each square foot of plan.
tyle and character of work to be the same as that described in specifications.
al copy.

BENJ. C. CARD,
Major, and Chief Quartermaster Department of Texas.

---

r D.—*Affidavit of E. Braden as to variance between preliminary and final contract.*

ɔF TEXAS,
ounty of Bexar, ss:

ırd Braden, of San Antonio, county and State aforesaid, having been duly on his said oath deposes and says: I am the identical Edward Braden who ociated with J. W. Angus, of Washington, D. C., under the firm-name of Ed. & Co., under which name and style I signed a contract for building the San ɔ quartermaster's depot, near said city, on the 9th day of June, 1876. The same ned by Capt. E. D. Baker, acting assistant quartermaster, U. S. Army, on the ıy, for and on behalf of the United States.
r this contract the said firm began work on said depot.
econd article of said contract provided that in case the foundations were sunk ıater average depth than three feet the said Ed. Braden & Co. should be paid r extra, at the rate of 1 cent per cubic foot, for all such excavations, and $3.50 ch extra for all such masonry in excess of an average depth of three feet.
time after the execution of said contract, Captain Davis, of the United States brought another contract to me to sign, sent down from Washington. Suppos-ɔ be a duplicate of the first contract, I signed the same without reading it over. uently I discovered that the above provision had been entirely omitted in the contract. This omission was not explained to me at the time of signing the

ther depose and say that upon the entire work the said firm of Ed. Braden & ; more money than has been awarded by the board convened by General Ord ıs the amount equitably due said firm.

ED. BRADEN.

n to and subscribed before me this 24th day of December, A. D. 1879.
L.] P. SHIELDS,
Justice of the Peace and ex-officio Notary Public, Bexar County, Texas.

T E.—*Affidavit of J. W. Angus as to variance between preliminary and final contracts.*

ɔT OF COLUMBIA, *ss:*

ıis 22d day of December, 1879, personally appeared before me, a notary public for the District aforesaid, Job W. Angus, who, having been duly sworn accord-aw, deposes and says: That he is a citizen of the United States, and a resident hington, D. C.; *that in the year 1876* he was associated with Edward Braden,

of San Antonio, Tex., under the firm-name of Ed. Braden & Co., in the building of the quartermaster's supply depot at San Antonio, Tex. On the 9th of June, 1876, he entered into a contract with the United States, through Capt. E. D. Baker, assistant quartermaster, United States Army, acting chief quartermaster Department of Texas, which contract bore date of June 7, 1876. Said contract was entered into under the directions of General M. C. Meigs, Quartermaster-General, who telegraphed to Captain Baker on the 8th of June, that "if J. W. Angus, of Washington, who was contractor with the Centennial branch of this office, is the responsible builder in the bid for the San Antonio depot, signed Braden & Co., award the contract to that firm * * *" and ordered that a contract be executed "at once before year expires and appropriation is endangered. The contract to cover the whole work; * * *" and stated further that this informal contract was to be afterwards replaced by a full contract.

This dispatch was shown to the deponent by Captain Davis, the engineer in charge of the work, and the first contract was then executed. This contract was drawn up according to the bid and proposal of the deponent, and contained a provision that "it shall be found that foundations of a greater depth than three feet are required, the said Ed. Braden & Co. shall be paid therefor extra, at the rate of one cent per cubic foot for all such excavations, and three dollars and fifty cents per perch extra for such masonry in excess of the average depth of three feet." This provision was introduced by the deponent because the specifications called for foundation walls of inches, or a sufficient depth to make a good and sufficient foundation, which is in terms vague and unlimited as to the depth of foundation that might be required; and in order to guard against any misunderstanding the deponent put his proposal in the manner stated, and this was made a part of the contract.

Subsequently, when the deponent was busy at work under this contract, with over a hundred men in his employ, Captain Davis came to him and stated that he had received the new contract from Washington, and asked him whether he would come into town and sign it, or should he bring it out to the works. He, the deponent, told Captain Davis to bring it to him, at the works, and he would sign it. Captain Davis brought it to him while he was at work with his hands full, and he stepped into the office and signed it without reading any of it except the heading, which showed that it related to that work. He understood and believed that it contained all of the provisions of the first contract, as General Meigs had stated, in his dispatch, that it would not vary in any essential manner from the specifications and plans, and he supposed it was in accordance with their proposal and bid, which General Meigs had telegraphed Captain Baker to accept.

J. W. ANGUS.

Subscribed and sworn to before me this 22d day of December, 1879.

[SEAL.] RUTLEDGE WILLSON,
Notary Public.

EXHIBIT F.—*Report of board of arbitration.*

HEADQUARTERS DEPARTMENT OF TEXAS,
San Antonio, Texas, December 11, 1878.

Mr. EDWARD BRADEN,
San Antonio, Texas:

SIR: Referring to your claim for extra labor and material in connection with the San Antonio quartermaster's depot, now under a reference to these headquarters for report, the commanding general has directed me to inform you that if you will designate some one to represent you in the matter, he will designate an officer to meet him, and the two thus selected will designate a third person, to the end that, jointly, the subject may be considered.

It is understood that the arrangement must not, through the selection of your representative and the third person, lead to any expense on the part of the United States.

Very respectfully, your obedient servant,

THOMAS M. VINCENT,
Assistant Adjutant-General.

1878, December 13. Braden, Ed. San Antonio, Texas, December 13, 1878.—States that in accordance with department letter of December 11, requesting him to have some one to represent him in his claim, appoints J. H. Kampmann to meet the officer appointed at any hour and as early as convenient; asks that Mr. Kampmann be notified of the time of meeting.

[First indorsement.]

HEADQUARTERS DEPARTMENT OF TEXAS,
San Antonio, Texas, December 16, 1878.

y referred to Captain W. R. Livermore, chief engineer officer, who is ıated, by the commanding general, to meet Mr. Kampmann as contem- er (copy herewith) of the 11th instant, to Mr. Braden.
in the case are herewith for your information.
ıd of Brigadier-General Ord:

THOMAS M. VINCENT,
Assistant Adjutant-General.

nber 9. Adjutant-General, U. S. A. Washington, D. C., December 2, for report communication from Grafton & Ladd, attorneys, &c., dated D. C., November 13, 1878, requesting that a board of officers be convened io to inquire into and report what sum, if any, ought in justice and equity Edward Braden & Co. for extra labor and material in the construction master's depot at San Antonio.

* * * * * *

[Sixth indorsement.]

HEADQUARTERS DEPARTMENT OF TEXAS,
OFFICE CHIEF QUARTERMASTER,
San Antonio, Tex., December 17, 1878.

y returned to the adjutant-general Department of Texas, with report of s, within called for.

BENJ. C. CARD,
Chief Quartermaster.

Copy of proceedings of board of officers at San Antonio.

SAN ANTONIO, TEX., *January* 11, 1879.

s of a board appointed to consider a claim of Edward Braden & Co., of Tex., for extra labor and material expended in the construction of the r's depot at that place:
ı December, Capt. W. R. Livermore, Corps of Engineers, was appointed e board to represent the interest of the United States, and to meet Mr. J. n, who was selected by Edward Braden & Co. as their representative, o members, according to their instructions, proceeded to appoint a al J. S. Mason, lieutenant-colonel Fourth United States Infantry, was so

re deliberation and after duly inspecting the depot and documents per- construction, the board considers that in justice and equity the follow- ıld be paid to Edward Braden & Co. on account of the several claims:
n foundations, $2,006.17.
abor in consequence of the change of location of the depot, $1,181.50.
r class of masonry, $8,025.
uestion of change in the cornice, the board is divided in its opinion as to change is any advantage to the building. Yet, inasmuch as the work d by the contractors with the consent of the officer in charge at an extra .72, of which sum the Quartermaster-General has already allowed $200, that there was some equity in the claim, the board is of the opinion that djustment of the claims fair consideration should be given to this one, rge of $1,335.72 being reasonable if the work be allowed.
Co. also claim the sum of $1,500 for using a superior grade of lumber to ed in their contract; although this claim has not been officially referred it is deemed just and equitable.
h is respectfully submitted.

JNO. S. MASON,
Lieutenant-Colonel Fourth Infantry.
W. R. LIVERMORE,
Captain of Engineers.
J. H. KAMPMANN.

[Seventh indorsement.]

HEADQUARTERS DEPARTMENT OF TEXAS,
San Antonio, Texas, January 17, 1879.

y returned to the Adjutant-General of the Army.
ufficient knowledge, nor had I time to make, myself, a reliable examina- subject which *embraces questions*, relating mainly to building, masonry,

&c., a knowledge of which is possessed by comparatively few officers. I therefore no tified the claimant, as will appear from a letter (copy inclosed) dated December 11th ultimo, upon which action was taken.

Mr. J. H. Kampmann, selected by the claimant, is the principal builder in town and has just finished the stone work on the addition to the San Antonio depot.

Lieutenant-Colonel Mason, selected by the representative of the United States, an claimants, is the inspector-general of the department, and has had experience i building posts, &c.

It was at my request that Captain Davis was appointed to supervise the buildin of the depot, and I know how carefully he has guarded the interests of the gover ment in connection therewith; in fact, he has, by reason of the good will of the co tractors, and their desire to accommodate the government, secured a much better sty and quality of work than is found on any stone building ever erected in this town perhaps the cheapest job of the sort ever done for the government—and, according the wording of the contract as to rubble work, better and much more expensive th the contract called for.

I therefore approve the proceedings of this board, and recommend that, if there a funds available for the purpose, the claim be paid.

E. O. C. ORD,
Brigadier-General, United States Army, Commanding.

Official:

THOMAS M. VINCENT,
Assistant Adjutant-General.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 163.

IN THE SENATE OF THE UNITED STATES.

JANUARY 29, 1880.—Ordered to be printed.

Mr. PRYOR, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 66.]

The Committee on Claims, to whom was referred the bill (S. 66) for the relief of Hortensia H. Cook, administratrix of Henry Cook, deceased, having had under consideration the same, and accompanying documents, report:

That from the letters, two in number, from Green B. Raum, Commissioner of Internal Revenue, Treasury Department, bearing date January 2, 1878, and January 2, 1879, furnishing information upon inquiries touching this claim, from the records of the United States direct tax commissioner for Virginia, on file in Office of Internal Revenue, Treasury Department—

1. That a certain lot of ground on King street, in the city and county of Alexandria, Virginia (more particularly described in documents herewith filed), said to belong to A. C. Briggs, and charged to him on the land books of the State aforesaid for the year 1860, was sold for the non-payment of direct taxes, on the 1st of February, 1864, to Henry Cook, for the sum of $400, the amount of tax, penalty, interest, and cost of sale being $7.05.

2. That the records of the office of United States direct tax commissioner for Virginia aforesaid, on file as aforesaid, *do not show* that the *money has ever been paid* back.

3. That Hortensia H. Cook, represented as the widow of the purchaser at tax sale, applied to Green B. Raum, Commissioner as aforesaid, for the return of the purchase-money aforesaid, under the provisions of the act of Congress of the 9th of May, and 8th of June, 1872.

4. That the Commissioner, Green B. Raum, aforesaid, refused the application to pay back said purchase-money so paid by Cook as aforesaid, upon the grounds that the acts of 1872, above mentioned, *only* provides for the refunding or paying back of the purchase-money when the purchaser has been evicted by a judgment of a United States court; and also rejected said application, and refused to refund said purchase-money, upon the further ground that it appeared that Cook had received a deed of conveyance of said lot from said Briggs.

5. That in this case it does not appear that Cook was ejected or evicted from said lot of ground by a judgment of a court or otherwise.

6. That after the direct-tax sale the said Cook did receive from the said Briggs a conveyance of title to said lot.

7. That the deed of *conveyance from Briggs*, the alleged owner, to

Cook, the purchaser at the tax-sale, recites a consideration of $800, excepts from the operation of the covenants as to warranty of titl forfeiture and sale of the lot conveyed for the non-payment of the U States direct tax.

8. That in the case of the claim and act of Congress for the reli Anthony Lawson, surviving partner of the firm of Lawson & Brew Alexandria—July 19, 1876—the commissioner of the internal-rev for the direct tax in Virginia adopted a rule not to receive the ta on property so advertised unless tendered by the owner in person; the Supreme Court, in the case of Lacy *vs.* Irwin (18 Wallace), held this rule was unauthorized, and rendered a sale under it void—

The committee, after considering the facts thus obtained from th companying documents, which are here referred to and made a hereof (papers are on file in Secretary's Office to which referen made), have reached the conclusion that the sale, under the rules c commissioners in Virginia, was void, and that in that event Cook the right to voluntarily do that which a court of competent jurisdi would have decreed or adjudged he could or might do by way of fecting his title to said lot sold at said tax sale; and that, therefor did not prejudice his right to have the purchase-money paid bac purchasing the lot from Briggs and receiving a deed of conveyance t for from him. But it is probable that Henry Cook, having obtained received the deed of and for said lot, could not successfully maint suit where he would be both the plaintiff and defendant, and such w be the case if he, under the acts of 1872, should be required to sec judgment of eviction, as insisted upon by the Commissioner, Gre Raum, before the purchase-money could be refunded to him unde acts of 1872; and equally so as to his administratrix. These diffic should not, in the estimation of this committee, prejudice the clai That it is the sense of this committee that justice requires that the cl ant should be refunded the amount claimed in the bill, and the comm therefore report back the bill and recommend its passage.

O

6TH CONGRESS, 2d Session. } SENATE. REPORT No. 164.

IN THE SENATE OF THE UNITED STATES.

JANUARY 29, 1880.—Ordered to be printed.

r. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 831.]

he Committee on Claims, to which was referred the bill (S. 831) for the relief of certain employés of the United States Government in the District of Columbia, have duly considered the same, and submit the following report:

This bill requires the accounting officers of the Treasury to pay the um of twenty per centum upon the gross amount of compensation reeived by certain employés of the government who have not been paid nd are entitled to the benefits of joint resolution of Congress approved February 28, 1867, under the construction given to said joint resolution by the United States Supreme Court.

No papers or evidence of any kind accompanied the bill. There was filed with your committee a printed brief, not signed by any one, stating that "the claimants found their claim for relief under the joint resolution of Congress of February 28, 1867." This brief further states that a large number of persons who claimed they were entitled to its benefits were excluded.

This law was so construed by First Comptroller Tayler, that a large number of persons who claimed they were entitled to its benefits were excluded. These men then commenced suit in the Court of Claims, and judgment was given in their favor. The Attorney-General appealed the causes to the Supreme Court, where the judgments of the Court of Claims were affirmed (13 Wallace, p. 576, *et seq.*). Application was again made to Comptroller Tayler, in the light of the decision of the Supreme Court, to reverse his former rulings and permit the claims of these men to be adjudicated and paid by the accounting officers of the Treasury. He refused, assigning as the reason that the joint resolution of February 28, 1867, had been repealed by the act of July 12, 1870, (16 Stat. at Large, p. 250, sec. 4). The claimants thereupon pursued their rights in the Court of Claims, and a number of judgments were given in their favor, which were paid by the annual appropriations for paying the judgments of the Court of Claims.

The next term of court the Attorney-General again appealed to the Supreme Court in a number of new cases that had been decided against the United States in the court below. The ground alleged for this second appeal was that the court had lost jurisdiction, the act of July 12, 1870, having repealed the joint resolution of February 28, 1867. The Supreme Court again affirmed the judgments of the Court of Claims, denying that the act of July 12, 1870, repealed the law of February 28, 1867, (20 Wallace, p. 179, *et seq.*).

Under these two decisions of the Supreme Court nearly all the valid claims under the law have been paid. But there still remain a few ignorant, uneducated men who did not know of the passage of said law, and, consequently, have not received the benefit intended by Congress. They are composed chiefly of laborers and teamsters, who found they were excluded from court by the statute of limitations only when the first payments were made, which took *place in August, 1873.* The last day for filing petitions was *June 30, 1873.*

Applications have since been made to the Treasury Department by the clai but payment has been refused.

By the decision of the Supreme Court the joint resolution stands unrepealed full force to-day. In justice and equity these poor men (and very poor they are) receive the benefit that Congress designed for them, which has been and is now held by the arbitrary ruling of the Treasury Department.

It should be remembered that this bill provides for payment of the precise persons whose claims have been passed upon by the Supreme Court and no oth

The joint resolution of Congress upon whic h the claimants found claim for relief is as follows:

[No. 30.] Joint Resolution giving additional Compensation to certain Employees in the Civil S the Government at Washington.

Be it resolved by the Senate and House of Representatives of the United States of in Congress assembled, That there shall be allowed and paid, out of any money treasury not otherwise appropriated, to the following-described persons, n ployed in the civil service of the United States at Washington, as follows: officers, temporary and all other clerks, messengers, and watchmen, includi listed men detailed as such, to be computed upon the gross amount of the c sation received by them, and employees, male and female, in the executive m and in any of the following-named departments, or any bureau or division the wit: State, Treasury, War, Navy, Interior, Post-Office, Attorney-General, agric and including *civil officers*, and temporary and all other clerks and employees, m female, in the offices of the coast survey, naval observatory, *navy yard*, arsen master-general, including the division of referred claims, commissary-general oners, bureau of refugees, freedmen, and abandoned lands, quartermasters, Cap Treasury extension, city post-office, and commissioner of public buildings, to t tographer and assistant photographer of the Treasury Department, to the s tendent of meters, and to lamplighters under the commissioner of public buildi additional compensation of twenty per centum on their respective salaries as f law, or, where no salary is fixed by law, upon their pay respectively, for o from and after the *the* thirtieth day of June, eighteen hundred and sixty-six; bu any of said persons is or shall be only entitled to receive salary or pay for a said year, the said twenty per centum shall be computed on the amount such is so entitled to receive for services in any or all of said departments or offices said year: *Provided*, That the above-named additional compensation to the em of the patent-office shall be paid out of the funds of said office: *Provided further* this resolution shall not apply to persons whose salaries as fixed by law exceed thousand five hundred dollars per annum.

SEC. 2. *And be it further resolved*, That all acts or parts of acts heretofore authorizing the Secretary of the Treasury to apportion or distribute among the of his department any sum of money by way of additional pay or compensat hereby repealed.

Approved, February 28, 1867.

The decision of the Supreme Court referred to in 13th Wallac rendered in December, 1871, and decided that the persons therein ing relief were embraced and provided for in said joint resolutio unanimously affirmed the decisions of the Court of Claims in fa claimants, and they have been paid. In the act approved July 12, entitled "An act making appropriations for the legislative, exec and judicial expenses of the Government for the fiscal year endi 30th of June, 1871," is the following provision, to wit:

SEC. 4. *And be it further enacted*, That all acts and joint resolutions, or parts of, and all resolutions of either House of Congress, granting extra compens pay, be, and the same are hereby, repealed, to take effect on the first day o eighteen hundred and seventy, and that the appropriations made by the fo parts of acts and resolutions be, and the same are hereby, repealed, to take effe and after June thirty, eighteen hundred and seventy-one, viz:

Section five of the act of June twenty-six, eighteen hundred and forty-eigh an appropriation for the salaries of special examiners of drugs, medicines, ch and so forth. And said salaries shall, from and after June thirty, eighteen and seventy, be paid from the appropriation for collecting the revenue from

Section four of the act of July twenty, eighteen hundred and sixty-seven, appropriation for the pay and expenses of the commissioners under the treaty *the* United States and the republic of Venezuela.

Section two of the act of June twenty-seven, eighteen hundred and sixty-four, being an appropriation for the pay and expenses of the commission under the treaty between the United States and Her Britannic Majesty for the settlement of the claims of the Hudson's Bay and Puget Sound Agricultural Companies.

Section three of the act of April seven, eighteen hundred and sixty-nine, being an appropriation for the pay, expenses, and advances on account of the commission under the treaty of the United States and the Republic of Mexico.

Section thirteen of the act of June twenty-eight, eighteen hundred and sixty-six, eing an appropriation for salaries and contingent expenses of the Bureau of Statistics.

Sections one and seven of the act of March three, eighteen hundred and forty-nine, eing an appropriation to pay for horses, mules, and so forth, lost or destroyed while i the military service.

Section one of the act of July twenty-seven, eighteen hundred and sixty-one, being a appropriation for refunding to States expenses incurred in raising volunteers durg the late rebellion.

And hereafter it shall be the duty of the proper department to submit estimates for e expenses and expenditures under these several heads, in the usual manner; and e appropriations of the amounts received from transfer drafts to the account of conagent expenses of the independent treasury, and of the amounts received from fines, nalties, and forfeitures to the account for expenses of United States courts, shall ase from and after June thirty, eighteen hundred and seventy.

SEC. 5. *And be it further enacted*, That all balances of appropriations contained in the nual appropriation bills and made specifically for the service of any fiscal year, and maining unexpended at the expiration of such fiscal year, shall only be applied to e payment of expenses properly incurred during that year, or to the fulfillment of ntracts properly made within that year; and such balances not needed for the said rposes shall be carried to the surplus fund: *Provided*, That this section shall not ply to appropriations known as permanent or indefinite appropriations.

SEC. 6. *And be it further enacted*, That all balances of appropriations which shall ve remained on the books of the Treasury, without being drawn against in the setement of accounts, for two years from the date of the last appropriation made by law, all be reported by the Secretary of the Treasury to the Auditor of the Treasury. hose duty it is to settle accounts thereunder, and the Auditor shall examine the oks of his office, and certify to the Secretary whether such balances will be required the settlement of any accounts pending in his office; and if it shall appear that ch balances will not be required for this purpose, then the Secretary may include ch balances in his warrant, whether the head of the proper department shall have rtified that it may be carried into the general treasury or not. But no appropriation r the payment of the interest or principal of the public debt, or to which Congress ay have given a longer duration of law, shall be thus treated.

SEC. 7. *And be it further enacted*, That it shall not be lawful for any department of e government to expend in any one fiscal year any sum in excess of appropriations ade by Congress for that fiscal year, or to involve the government in any contract r the future payment of money in excess of such appropriations.

The twenty percentum cases in 20th Wallace referred to by claimants i their brief were decided in October, 1873, and embraced the claims f fourteen different persons, some of which were filed after the passage f the repealing act of July 12, 1870, above quoted. The majority of he court decided, in substance, 1st. That the joint resolution ceased to e operative at the end of the fiscal year in which it was enacted. 2. hat such additional compensation is allowed only for that year. 3. That he claims in these cases are only for such additional compensation durg that fiscal year. 4. That the joint resolution ceased to be operative t the close of that fiscal year. 5. That the right to such additional ompensation became fixed and vested when the year's services were ithfully performed. 6. That the repealing act which it is supposed onstitutes a bar to the cause of action in these cases did not become a w until more than three years after the right to the additional compenation had become fixed and vested, and the joint resolution had ceased o be operative in respect to prospective services.

The majority of the court affirmed the judgment in the first twelve ases and reversed in the two last cases. Mr. Justice Swayne, in whose pinion concurred *the Chief Justice and* Mr. Justice Davis, dissented

from the judgment of the majority in the first twelve cases. Mr. Ju Swayne in this dissenting opinion says:

When the resolution giving the 20 per cent. was passed nearly eight months year to which the allowance related had elapsed. The allowance was a mere gr Hence, there was no vested right arising from the resolution, and there could b But the resolution was operative in each case until the claimant was paid. W pealed, the gratuity which it gave fell with it. The repeal necessarily had tha I see no reason for giving the repealing section a more limited construction. intended to take away from all those who had not then been paid the right to thereafter. I think, therefore, that the judgments of the Court of Claims sh reversed.

There is no pretense that these claimants, seeking relief now hands of Congress, ever filed their claims in the Court of Claims six years after their rights of action accrued, which was on the June, 1867. There is no claim even that they made applications Treasury Department for payment of their claims within the said si after their right of action accrued. It is evident from the joint tion of February 28, 1867, that the 20 per centum therein allowed gratuity, an additional compensation upon their respective sala pay as fixed by law for one year from and after the 30th day of 1866. In the determination of these cases it is not necessary fo committee to discuss the correctness of the decisions set forth opinion of the majority of the court and in the dissenting opinion case is plain without regard to these decisions. The claimant that they have a claim founded upon a law of Congress. Congr provided as follows, to wit:

The Court of Claims shall have jurisdiction to hear and determine the fo matters:

First. All claims founded upon any law of Congress, or upon any regulatio executive department, or upon any contract, expressed or implied, with the ment of the United States, and all claims referred to it by either house of Con

SEC. 1060. All petitions and bills praying or providing for the satisfaction of claims against the government, founded upon any act of Congress, or upon an lation of an executive department, or upon any contract, expressed or implie the Government of the United States, shall, unless otherwise ordered by resol the house in which they are introduced, be transmitted by the Secretary of the or the Clerk of the House of Representatives, with all the accompanying doc to the Court of Claims.

SEC. 1069. Every claim against the United States cognizable by the Court of shall be forever barred unless the petition, setting forth a statement thereof, in the court or transmitted to it by the Secretary of the Senate or the Clerk House of Representatives, as provided by law, within six years after the cla accrues.

Admitting, therefore, that under the joint resolution of Congr February 28, 1867, the right of the claimants to such additional pensation became fixed and vested, when the year's services were fully performed the claimants had only six years after their cau action accrued within which to prosecute their legal claims. The not do this, nor did they even file them in the Treasury Departme auditing and payment. The brief for claimants says: "But ther remain a few ignorant, uneducated men who did not know of the sage of the law, and consequently have not received the benefit int by Congress. They are composed chiefly of laborers and teamsters found they were excluded from court by the statute of limitation when the first payments were made, which took place in August, and that "in justice and equity these poor men (and very poor the should receive the benefit that Congress designed for them, whic been and is now withheld by the arbitrary ruling of the Treasur partment." The reflection upon the officers of the Treasury Depart

is not well founded. They simply obeyed the laws, and refused to audit or pay claims barred by limitation, and for the payment of which no appropriation was then available. The claimants are precisely in the same situation with thousands of others, who have once had claims founded upon a law of Congress cognizable in the Court of Claims and efore the commissioners of claims, commonly known as the Southern laims Commission, who from ignorance of the law or their rights under e law have neglected and failed to present them in the time provided r law. Your committee see no stronger grounds in these cases for the moval of the limitation prescribed by law than exist in thousands of her cases in which Congress has uniformly refused to interfere by ecial legislation; for this bill is, in effect, an application to Congress remove the statute of limitations, and to grant to claimants a right ich they claim they once had. Your committee, therefore, report the l back to the Senate, with the recommendation that the claims of the imants set forth in said bill be not allowed, and that said bill be efinitely postponed.

O

cMILLAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 299.]

'ommittee on Claims, to whom was referred the bill S. 299, with the tion and other papers accompanying the same, have had the same under sideration, and respectfully submit the following report:

is claim has already been acted on by this committee at the first n of the Forty-fourth Congress (Report No. 523), and at the second n of the Forty-fifth Congress (Report No. 269). The matter was considered and a favorable report made on each occasion. Hav- arefully examined the case, we concur in the former action of the nittee.

e reports heretofore made, which are substantially alike, set forth icts upon which the claim is based and the grounds for allowing the . We therefore adopt the report (No. 269) made at the second n of the Forty-fifth Congress by Mr. Harris, from the committee, as vs:

petitioner, Joseph N. Lewis, now a resident of Missouri, was, in 1855, commer- ent of the United States at Port au Prince, Hayti. On the 22d of September of ear, as such commercial agent, he caused the seizure at that port of the Ameri- ark Amelia, for violation of the neutrality laws of the United States, by reason contraband cargo of guns and ammunition. The fact of the seizure was com- ated by the petitioner to the State Department, by a dispatch of the 25th of nber, 1855. Pursuant to the suggestion of the State Department, the United steamship Saratoga was sent to Port au Prince to bring the Amelia to New

petition, which is verified, states that on the passage to the port of New York, petitioner is informed, the said vessel was forced by stress of weather and dam- to the port of St. Thomas, where both the vessel and cargo were condemned ld by the United States, and the proceeds of the sale were paid into the Treasury United States. In the seizure and subsequent care of the vessel at Port au , the petitioner expended, of his own money, the sum of $411.22 in gold, as for

facts, which do not conflict with the petition, adds "that Mr. Lewis does not : to have been expressly authorized to make the seizure, nor was that act appro this department, or the account for the expenses incurred, as is customary b could be paid."

The seizure was communicated to the State Department at the time it wa and vouchers for the expenses incurred by petitioner were furnished, and a dra for the amount, the only reason for the non-payment of which, given by the T Department, was that no appropriation for such payment was made. The gove accepted the seizure with a knowledge of all the facts, and sold the vessel and r the proceeds of such sale, which were covered into the Treasury.

We are of opinion that petitioner's claim should be allowed, and therefor the said bill favorably and recomm end its passage.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 166.

IN THE SENATE OF THE UNITED STATES.

JANUARY 29, 1880.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of Wolff & Brown, have carefully examined the same, and submit the following report:

The petition of the claimants is addressed to Congress, is not verified by affidavit, was not accompanied by any evidence or papers, and is as follows, to wit:

To the Senate and House of Representatives of the United States of America in Congress assembled:

Your petitioners respectfully represent: That on or before February 20, 1865, Col. Thomas Moonlight, being then commander, of Colorado military district, and an officer of the United States Army, did, by his authority, enter upon our premises in Jefferson County and Territory of Colorado, and press certain horses, to wit, one sorrel horse and one black horse, into the service, in the name of the United States; that said horses were taken to the headquarters of said Moonlight, appraised, and receipted for—the sorrel at $250, the black at $225; that we were promised the regulation price, 40 cents per day, for each horse until returned; that we have exhausted all our legal remedies, and the War and Treasury Departments both refuse to pay us. We therefore pray that Congress order us paid according to the terms of the contract; that our horses never having been returned or paid for, the legal presumption is that they are still in the service, and the bill is necessarily accumulating.

We further respectfully represent that the taking of our horses in the spring time was greatly to our damage, and we have been further damaged by the delay and refusal to pay, by which we have been deprived of the use of our property now 14 years.

WOLFF & BROWN,
Per JOHN B. WOLFF.

Your committee addressed a letter of inquiry to the Secretary of War, and received through him the following letter and accompanying papers from the Adjutant-General, to wit:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, January 19, 1880.

SIR: I have the honor to return herewith letter of December 22, 1879, from the Hon. F. M. Cockrell, requesting certain information in the matter of a petition of Wolff & Brown for compensation for horses alleged to have been taken by Col. Thomas Moonlight, in Jefferson County, Colorado, in 1865, and to report thereon as follows:

Col. Thomas Moonlight, Eleventh Kansas Volunteer Cavalry, at the time of the impressment of the horses mentioned in the petition, was in command of the district of Colorado, with headquarters at Denver. He directed Capt. W. H. Evans, Eleventh Ohio Cavalry, stationed at Camp Collins, Colo., to press horses into service, for which, after appraisement by a board, certificates were to be given the owners. There is no record of a report of appraisement having been made by any board or any evidence that receipts were given to the petitioners, Wolff & Brown, on file in this office, or

with records of discontinued commands filed here, and no record of any claim i favor for compensation for the horses alleged to have been seized.

In connection with the matter of seizure by the military of horses in Col 1865, and the necessity therefor, I have respectfully to inclose herewith copies of Moonlight's orders in the premises.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEN
Adjutant-G

To the Hon. the SECRETARY OF WAR.

HEADQUARTERS DISTRICT OF COLORA
Denver, February

[General Orders No. 10.]

Hon. SAMUEL H. ELBERT,
Secretary of Colorado Territory:

I. In view of the threatening attitude of the Plain Indians, and the rav are committing on the citizens and Territory, as also the cutting off of our lin munication, the scarcity of troops in this district, and the impracticability ing re-enforcements from the general government until the opening of sp spectfully call upon your honor, as the acting chief executive of this Ter three hundred and sixty mounted men for ninety days' service, unless s charged, in companies of sixty, under a competent field-officer, to open the route as far as Julesburg, and keep the same open, that business may run usual channel, and that the firesides and lives of this people may be spare merciless visitations of the inhuman savages, who swear eternal vengean white men.

II. To insure a prompt response to your call, and that all classes of men the importance of this step and the imperative necessity which demands su martial law is hereby proclaimed throughout this district, to take effect on t stant, and all labor and business is suspended until the number of men cal organized and placed under my command, to operate in conjunction with t now holding the Indians in check. Each man should come provided with a least two blankets, and, if possible, a revolver. All other arms and accou including saddles and bridles, camp equipage, forage, rations, ammunition, & issue in behalf of the government.

III. While I regret the existence of a state of affairs which demands actic kind, I earnestly call upon all men to drop private animosities and strife, hands together in a work of humanity, which will redound to the honor and Colorado. If horses cannot be procured voluntarily I will be compelled to pu into service wherever found. Horses furnished for service will be appraised by hereinafter appointed, who will give the owner a certificate of appraisement in case of loss or injury, remuneration may be claimed and obtained.

IV. As soon as a county has furnished the quota of men and horses apport the acting chief executive, martial law will be suspended in that county and again resumed.

V. The assistant provost-marshal-general of the district will take such ste insure a faithful execution of this order; to him, and such deputies as he may is intrusted the work of seeing that all houses of business, drinking saloons, amusements, &c., be kept closed, except between the hours of two and t afternoon. This refers only to merchandising—drug-stores, eating-saloon butcher-stalls, and bakeries will be allowed to continue their business; but s hotels must be kept closed until martial law is suspended and the civil offic invited to resume their duties.

VI. The following are the officers and citizens appointed to appraise the h nished for service under Paragraph III of this order:

1. Capt. C. L. Gorton, A. Q. M., U. S. Volunteers.
2. Mr. W. G. Long, master of transportation, Denver.
3. Mr. John Cree, Denver City.

T. MOONLIGH
Colonel Eleventh Kansas Cavalry, Comm

Official copy.

R. C. DRU
Assistant Adjutant-

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE, *January* 19, 18-0.

HEADQUARTERS DISTRICT OF COLORADO,
Denver, Colo., February 7, 1865.

H. EVANS,
Eleventh Ohio Cavalry, commanding Camp Collins, Colo.:

have found it necessary to proclaim martial law in this district, to enable me
nen and horses to go out and open the overland road.
be pretty difficult to obtain the number of horses, and I understand that
a good many in your section of country.
fore respectfully request that you press into service and send down here, with
ners, from thirty to fifty horses fit for service. They will be received under
Order No. 10, from these headquarters.
merely a loan of horses for ninety days, unless sooner discharged, and is a
necessity for the salvation of this country.
look for the horses in a few days.
spectfully, your obedient servant,

T. MOONLIGHT,
Colonel Eleventh Kansas Cavalry, Commanding.

HEADQUARTERS DISTRICT OF COLORADO,
Denver, February 12, 1865.

T. CLAIR,
Detective and Scout:

'ou will proceed to-morrow morning in the direction of Cañon City and press
rice fifty horses, fit for cavalry service, for the purpose of mounting the militia
ed into service, as it is impracticable to obtain a sufficient number of horses
counties called on by the governor to fill a quota.
wners of horses pressed can accompany them to this place, if they desire, so
tain a certificate from the board of appraisers.
vill be taken to have the pressure fall equally, if possible, on all men in the
rhood where the horses are found.
d disloyal men be found, take their horses in preference to the loyal, and where
a number of horses or few, leave sufficient to carry on the work of the farm,
e case may be.
ad of soldiers will accompany you to assist in carrying out these instructions.
espectfully,

T. MOONLIGHT,
Colonel Eleventh Kansas Cavalry, Commanding.

HEADQUARTERS DISTRICT OF COLORADO,
Denver, Colo., April 9, 1865.

EORGE F. PRICE,
cting Assistant Adjutant-General, District of the Plains, Denver, Colo.:

AIN: In obedience to instructions from Brigadier-General Connor, commanding
of the Plains, I submit the following statement as to how the First Regiment
lo Mounted Militia was raised:

* * * * * * *

ie 8th of February I proclaimed martial law, as per General Order No. 10, here-
closed, and called for six companies of mounted militia, of sixty men each, to
mmunications with the East, and keep it open, as well as to protect the lives
operty of citizens. Some of these companies were enlisted in a few days, as
nen for home protection; but to enable me to issue quartermaster, commissary,
nance stores to the officers commanding companies, and to impress upon the
f the officers and soldiers that they were under the orders only of the Government
United States, I directed the assistant commissary of musters of the district,
. C. Anderson, to verify the presence of the men by calling the roll, and certi-
n that roll that they were duly mustered in, as set forth on the dates.
I considered prudent and necessary, both to insure justice to the men and pro-
government.
rs and men distinctly knew from the beginning that they would receive no pay
e government directly, but that the Territory would pay them and be reim-
by the Federal Government on the action of Congress, who will undoubtedly
e in favor of my action and in *justice to the* Territory.
general order *proclaiming martial law* prescribes what the government would

d o in the way of arming and equipping, and the tenor of that order has been strict o bserved by me.

The companies were mustered in for three months' service. The horses belong the Territory. The arms and accouterments for men and horses belong to the gc ernment, except the pistols, which belong to individuals. No clothing of any c scription has been issu ed to officers or men. The camp and garrison equipage belon to the government.

In conclusion, I would say that the Territory responded promptly to the call f troops, and to this promptitude is the country westward indebted for the free, op lines of communication.

I am, with respect, your obedient servant,

T. MOONLIGHT,
Colonel Eleventh Kansas Cavalry, Commanding.

Official copy:

R. C. DRUM,
Assistant Adjutant-General.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE, *January* 19, 1880.

Your committee then addressed a letter of inquiry to the Secretary c the Treasury, and received through him the following letter from th honorable Third Auditor, to wit:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
Washington, D. C., January 24, 1880.

Hon. H. F. FRENCH,
Assistant Secretary of the Treasury:

SIR: I herewith return the communication addressed to the Secretary of the Treasury, on 21st instant, by the chairman of the Senate Committee on Claims, and also the petition by Wolff & Brown for compensation for two horses. Their claim is now pending in this office. It has not been finally disposed of, because the attorney through whom it was presented asked delay. But as nothing has been heard from him, relative to the case, for a long time, I purpose now to decide it, and transmit the papers to the Second Comptroller.

These parties seem to have no just claim against the United States. If they have not been paid for the horses, or did not receive them back, or receive others as equivalents, their claim would seem to be against either the Territory of Colorado or the county of Jefferson, of said Territory.

In some emergency, early in 1865, the governor of Colorado called out the Territorial militia, and put their service at the command of Col. Thomas Moonlight, then commanding United States forces in that region. The arrangement by the Territorial authorities was that each county, through its commissioners, should procure from the citizens of the county or as they could the horses to mount the county's quota of militia. The commissioners of Jefferson County seem to have obtained two horses from Wolff & Brown, and these they turned over *to the Territory* with the others as the quota of that county, and the Territorial authorities mounted militiamen thereon.

During the service of the militia, all horses so used remained in the hands of the militia, and when the service terminated the horses went into the custody of the Territorial authorities.

The two horses of Wolff & Brown were never in the *custody* of the United States, nor were they ever in the *military service* of the United States, in any other way than as ridden by militia which, without being mustered into the service of the United States, were acting as an auxiliary force.

The commissioners of Jefferson County made claim upon the Territory for the value of the two horses, and the Territory satisfied the demand in full, so that the commissioners receipted to the Territory for the payment, November, 1866, of $655, as the value of *three* horses—one in the name of J. H. Brown, and *two* in the name of J. B. Wolff.

The Territory made claim upon the United States for reimbursement of expenses connected with raising such militia, which claim was adjusted under the provisions of the deficiency act of July 28, 1868 (see under head of "Rock Island Arsenal").

Inasmuch as none of the horses used by the militia passed into the custody of United States officers, but were retained by the Territorial authorities when the militia were discharged, the Territory was not allowed the *value* of these two horses, but was allowed forty cents per diem for the use and risk of each for the period of service.

Very respectfully, your obedient servant,

E. W. KEIGHTLEY,
Auditor.

The act of Congress referred to in the foregoing letter is entitled "An ; making appropriations and to supply deficiencies in the appropria- ns for the service of the government for the fiscal year ending June 1868, and for other purposes," and was approved July 25, 1868, and clause referred to is as follows, to wit:

or the payment to the Territory of Colorado for the services of the first regi- it of the Colorado mounted militia, called into the service of the United States on requisition of Col. Thomas Moonlight; and for the services of any other mili- forces of the said Territory which were employed in the service of the United tes, on the call of the governor of the Territory, in the year eighteen hundred and y-four, the sum of fifty-five thousand two hundred and thirty-eight dollars and hty-four cents, being the amount found to be justly due and recommended to be wed on the account as presented by Thomas M. Vincent, assistant adjutant-general, his letter to the Secretary of War, dated Washington, October thirty-first, eighteen dred and sixty-seven: *Provided*, That said amount shall be taken and deemed to in full satisfaction of the claims of the said Territory: *And provided further*, That money shall be paid from the Treasury on said account until the public property ned to the forces shall have been properly accounted for to the satisfaction of the per officers of the Treasury.

On reading the petition of claimants it would seem that they had ade strenuous efforts before the Treasury and War Departments for ayment of their claims. The truth is, according to the letter of the djutant-General, they never have presented any claim to the War Department; and according to the letter of the Third Auditor, the claim as still pending in his office when your committee made inquiry for the acts in the case, and had not been finally disposed of "because the ttorney through whom it was presented asked delay," and as nothing had been heard from this attorney relative to the case for a long time, the auditor has just made his decision, which is that "these parties seem to have no just claim against the United States. If they have not been paid for the horses, or did not receive them back, or receive others as equivalents, their claim would seem to be against either the Territory of Colorado or the county of Jefferson, of said Territory." It further appears from the letter of the auditor that "the commissioners of Jefferson County made claim upon the Territory for the value of the two horses, and the Territory satisfied the demand in full, so that the commissioners receipted to the Territory for the payment, November, 1866, of $655, as the value of three horses; one in the name of J. H. Brown, and two in the name of J. B. Wolff. The Territory made claim upon the United States for reimbursement of expenses connected with raising such militia, which claim was adjusted under the provisions of the deficiency act of July 25, 1868." "Inasmuch as none of the horses used by the militia passed into the custody of United States officers, but were retained by the Territorial authorities when the militia were discharged, the Territory was not allowed the value of these two horses, but was allowed forty cents per diem for the use and risk of each for the period of service."

Your committee concur with the auditor in his decision. The petitioners have no ground for any claim against the United States. Congress cannot properly assume jurisdiction to audit and adjust claims of the character set forth in this petition. Your committee, therefore, recommend that the claim of these claimants be not allowed, and that your committee be discharged from its further consideration.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 167.

IN THE SENATE OF THE UNITED STATES.

JANUARY 29, 1880.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of Isaac F. Moore, late private in Company H, Twenty-fourth Regiment Kentucky Volunteer Infantry, praying compensation for a horse belonging to him lost in the military service of the United States during the late civil war, have examined the case, and report thereon as follows:

The claimant, during the late civil war, was a private in Company H, Twenty-fourth Regiment Kentucky Volunteer Infantry. He enlisted on the first day of November, 1861, and was discharged from the military service of the United States on the 31st day of January, 1865.

He was detailed as a courier at military headquarters at Lexington, Kentucky, and furnished with a horse by the United States. The horse so furnished was disabled while used by claimant, and, thereupon, the claimant purchased a horse for himself, which he used in his service as such courier. The claimant paid $125 for this horse, which was his market value. There is evidence tending to prove that claimant was ordered by his superior officer to purchase a horse for his own use as such courier, immediately after the horse furnished to him by the United States had been disabled.

The horse purchased by claimant was used by him during the campaign against Atlanta, but soon after the fall of that city the horse was kicked and so injured that he was not able to keep up with the column, and it became necessary to abandon him; he was left behind and abandoned and entirely lost to claimant. The horse never was valued in the United States service.

In 1866, claimant presented his claim for payment to the proper department of the government.

The claim was made under act of March 3, 1849. It was examined by the Treasury Department, and on the 2d of November, 1866, the Third Auditor of the Treasury reported thereon as follows, viz:

Report of the Third Auditor of the Treasury upon the claim presented by Isaac F. Moore, private Company H, Twenty-fourth Kentucky Infantry.

TREASURY DEPARTMENT,
Third Auditor's Office, November 2, 1876.

The property alleged to have been lost, one iron-gray horse, value $125, which was kicked and crippled so that he was unable to keep up with the command, and was abandoned by order, near Lexington, Ky., September 27, 1864.

The evidence consists of an affidavit setting forth the circumstances of the case (and corroborating the statement of claimant) by the late captain of the company, and two privates also make a like statement.

It is considered that the loss alleged is not one of those described in the act of March 3, 1849, for which compensation is thereby provided; wherefore, it is respectfully submitted that the claim ought not to be allowed.

JOHN WILSON, *Auditor.*

To Hon. JOHN M. BRODHEAD, *Second Comptroller.*

A true copy.

A. M. GANGEWER.
Deputy Third Auditor.

This report was concurred in by the Second Comptroller November 12, 1866, and the claim was thereupon rejected.

On the 8th of January, 1880, your committee referred the claimant's said petition to the Treasury Department for information, and with the request that the committee be furnished copies of all papers on file in the department relating to said claim, and also with the opinion of the department as to whether or not the claim ought to be paid. Copies of the papers asked for were promptly furnished, and, at the same time, the committee received the following opinion from the Third Auditor, viz:

TREASURY DEPARTMENT,
THIRD AUDITOR'S OFFICE,
Washington, D. C., January 20, 1880.

SIR: In compliance with your request, by letter of the 8th instant, I have the honor to transmit herewith copies of the papers in horse claim, No. 11,652, of Isaac F. Moore, late private Company H, Twenty-fourth Kentucky Infantry.

Your attention is invited to copy of letter from this office to claimant's attorney, dated November 8, 1877, in which some of the reasons why it is believed this case should not be reopened are stated, and to the reply of the attorney to the same. The attorney alleges that the 5th section of act July 22, 1861, entitled "An act to authorize the employment of volunteers," &c., required each private soldier to furnish his own horse and equipments when the nature of his service rendered the same necessary. This is a mistake. It is only provided in said section that each company officer, non-commissioned officer, private, musician, and artificer of *cavalry* shall furnish his own horse and horse equipments.

This provision was repealed by the 9th section of act June 20, 1864, entitled "An act to increase the pay of soldiers," &c., except only so far as the same may hereafter be made to apply and relate to mounted troops called into the service for a term not exceeding six months.

On June 22, 1864, the War Department published said act for the information of all concerned, by General Order No. 216, and construed the act as prohibiting the use of private horses by enlisted men, and as soon as practicable purchased the private horses furnished by them, or required them to dispose of them in some other way.

Claimant's attorney construes the act of March 3, 1849, and the several amendments thereto, as providing payment for horses lost by any person in the military service of the United States, without regard to his position in the service; but it has always been held by this office that said act and amendments only provided payment for horses lost by mounted men who were authorized by law or Army Regulations to be mounted.

The claim was rejected in November, 1866, for the reason that it was considered that the loss alleged is not one of those described in the act of March 3, 1849, for which payment is thereby provided. This conclusion was arrived at because it was held that the losses described therein, for which payment is provided, relate only to losses by persons who are mounted by authority of law and Army Regulations, and that no provision is made therein for payment for horses lost by *any person* in the manner and from the cause alleged in this claim.

By an amendment approved June 22, 1874, it is provided that the first section of the act of March 3, 1849, providing for the payment for horses and equipments lost by officers or enlisted men in the military service shall not be construed to deny payment to such officers or enlisted men for horses which may have been purchased by them in States in insurrection; "and payment in any case shall not be refused where the loss resulted from any exigency or necessity of the military service, unless it was caused by the fault or negligence of such officers or enlisted men."

By this amendment payment is provided for horses lost in the manner and from the cause alleged in the claim under consideration, if lost by such persons as are named in act of March 3, 1849, as entitled to indemnity for the loss of horses; but as it is held

sted man of an infantry organization is not one of the persons so named in
s office has declined to reconsider its action on this claim.
respectfully,

E. W. KEIGHTLEY, *Auditor.*

I. COCKRELL,
man of Senate Committee on Claims,
Washington, D. C.

mmittee have gone carefully over all the papers in the case
ır in conclusions reached by the Auditor.
nmittee recommend that the claim be not allowed, and that
ttee be discharged from the further consideration of said peti-

O

[CONGRESS, } SENATE. { REPORT
d Session. } { No. 168.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

MCPHERSON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 855.]

Senate Committee on Invalid Pensions, to whom was referred the bill .855) for the relief of Narcissa Gibson, widow of the late Alexander Gib- n, a captain in the United States Navy, by placing her on the pension- lls of the United States, report as follows:

arcissa Gibson was the lawful wife of Captain Alexander Gibson of United States Navy at the time of his death. Captain Gibson died ie year eighteen hundred and seventy-two of phthisis pulmonalis, racted while in the United States Navy in the line of duty, as ap- s from the medical testimony on file in the year 1861. It further ears from the testimony that Captain Gibson's malady was aggravated i an injury to his shoulder incurred in the line of duty during a gale ind, 1864. Captain Gibson was on active service as an officer of the ted States Navy for forty-three years, and, in accordance with exist- regulations as to age, was in the year 1867 placed on the retired list fficers of the United States Navy.

was the almost invariable custom of the United States Government llow pensions to the widows of all commissioned officers of the Army Navy, until a decision of Caleb Cushing, the then Attorney-General, lered it necessary to the allowance of a pension to the widow of an er, that she should prove that he died of injury or disease contracted le in the service and in the line of duty.

he only testimony on file, antagonistic to the claim, and on which imony was based the action of the Pension Office in rejecting it, is of Dr. R. B. S. Hargis, who attended Captain Gibson in his last ss, who says:

on a careful inquiry with regard to the history of the case (phthisis pulmonalis) h ultimately resulted in his death, *I formed the opinion* that it had its origin in *an nt constitutional predisposition* and gradually developed during the last few years tive service in the United States Navy.

his would imply that *an inherent constitutional predisposition* lay nant during forty years of youth, manhood, and middle age to spring activity at the age of 58, just at the time when Captain Gibson had subjected to great exposure while serving before the enemy; that umbered again does not appear, but it does appear that at last he umbed to it and died.

ptain Gibson's record shows that he had been in the active service s country as a naval officer for nearly 50 years; that he was in the

service from his boyhood; that he was a meritorious officer who had nearly attained the summit of his profession by his personal merit, and there is no evidence whatever brought forward, nor is it even intimated that the disease contracted in 1861 and of which he died in 1872 was in any way brought on or accelerated by any indiscretionary action of his own.

It appears among the papers on file in the case that the claimant appealed from the adverse decision of the Commissioner of Pensions to the Secretary of the Interior who treats the matter thus:

> While I am not quite prepared to disturb the action of your office in rejecting the claim on the grounds stated, I am not quite convinced that such would be a just disposition of it. Were I to state to the claimant the grounds for rejection herein referred to, she would be almost justified in assuming that 43 years of active service in the United States Navy was a more probable and natural cause of the disease which lost her a husband than *an inherent constitutional predisposition* discovered by the attending physician, and I confess I am very much inclined to this view of the case.

The action of the Pension Office in rejecting the claim with the testimony before them so unvarying as to its merits is faulty, or an error in judgment. The opinion of the physician who attended the deceased captain in his last illness, who does not appear to have ever seen or attended him before, is not borne out by the presumptive facts in the case, for it is a *reductio ad absurdum* to believe that a man who was exposed to the inclemencies of a sea-faring life for fifty years should have carried the inherent elements of consumption from his cradle, of which disease he died, when there is direct evidence that it was contracted during the war of the rebellion from extraordinary exposure in the year 1861.

Your committee therefore return Senate bill No. 855 with the recommendation that it do pass without amendment.

O

ONGRESS, } SENATE. { REPORT
Session. } { No. 169.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

PHERSON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 702.]

nmittee on Pensions, to whom was referred the bill (S. 702) granting ension to Mary A. Tindall, having examined the same, report:

they are informed that the claim is still pending at the Pension and in accordance with a rule of the committee which "requires ns to be first acted on by the Commissioner of Pensions," ask to harged from the further consideration of the bill, and that it be tely postponed.

O

6TH CONGRESS, 2d Session. | SENATE. | REPORT No. 170.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

Mr. MCPHERSON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 956.]

The Committee on Pensions, to whom was referred the bill (S. 956) granting a pension to John Hubbell, report the same back adversely, for the following reasons:

This claim was rejected by the Pension Department for want of satisfactory evidence to show origin of alleged disability in the service in the line of duty.

The committee are of the opinion that sufficient evidence has not been adduced to justify it in reporting favorably on the application. Evidence for claimant is very conflicting, and many alleged facts contradicted.

O

[CONGRESS, } SENATE. { REPORT
d Session. } { No. 171.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

MCPHERSON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 970.]

Committee on Pensions, to whom was referred a bill for the relief of omas Hugh Rothrock, report the same adversely, for the following asons:

appears from the papers that Mr. Rothrock filed his claim in 1870, ng been discharged in 1862. The evidence submitted upon which laim for pension is based is entirely unsatisfactory. The papers not only the claimant's statements as to time, place, and circumces of origin of alleged disability vary, but that the record fails upport any of them. Also the statements of the affiants are in lict with each other and with the record, and the claimant was disged for disability entirely different from that on account of which laims pension, and now says he was not treated whilst in the service he alleged disability.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

McPHERSON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1193.]

he Committee on Pensions, to whom was referred the petition of ton L. Sparr, report back the accompanying bill for his relief.

he petitioner enlisted as a private in Company K, Nineteenth Indi- Volunteers, on the 29th of July, 1861, and served as such in battle of Antietam on September 16, 1862. During that engage- ıt, all the commissioned officers of the company being killed or nded, he assumed the command and led the company to the close of battle. For meritorious conduct on that occasion he was commis- ed second lieutenant, to date September 18, 1862, and he continued erve in that capacity until April 26, 1863, when, by reason of dis- ity arising from disease, he was discharged from the service. This ase, diarrhea and piles, for which he is now drawing his pension, not leave him, but did not fully disable him for duty for several ths subsequent to his appointment and commission as second lieu- ınt.

ı his application for a pension, it being necessary to fix a date at ch the disability was contracted, and remembering that he was sick he day of the battle of Antietam (September 17, 1862), that date given as the day on which the disability was contracted, when, in t of fact, he was not really disabled from the disease for months rward. Having proved this date in his application, the Commis- er of Pensions, by a strict interpretation of the law, was compelled low him his pension only for the rank of a private instead of second enant, for which he had applied, and which, in equity and justice, ıould have had.

ıe records in the possession of the committee furnish all the evidence ssary to substantiate the justice of the case.

O

[CONGRESS, } SENATE. { REPORT
d Session. } { No. 173.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1046.]

Committee on Pensions, to whom was referred the bill (S. 1046) grant-g a pension to the widow of Maj. Thomas T. Thornburgh, late of the nited States Army, have examined the same, and report:

[ajor Thornburgh was killed in a recent battle with the Ute Indians, he State of Colorado, whilst gallantly leading the troops under his mand.

he Pension Bureau has granted his widow the amount of pension scribed by law for the widows of officers of the rank held by him at time of his death, which is $25 per month.

he bill proposes to increase this amount to $100 per month.

he committee do not know any good reason why such increase shall nade in this particular case. There are to-day on the pension rolls y widows of officers of the same rank held by Major Thornburgh, and cannot see why, if an increase of pension be granted in this case, it l not be granted in all such cases. They therefore recommend that the be indefinitely postponed.

O

H CONGRESS, 2d Session. } SENATE. { REPORT No. 174.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 797.]

Committee on Pensions, to whom was referred the bill (S. 797) granting a pension to Henry C. Smith, have examined the same and the papers connected therewith, and report:

That Henry C. Smith was a private in Company E, Fifteenth Regiment New York Heavy Artillery; that he was enlisted January 4, 1864, and was discharged May 26, 1865, for disability. He was wounded on the head (a gunshot wound) May 6, 1864, at the battle of Mine Run, Virginia, from which time until the date of his discharge he rendered little service. He has suffered and is suffering from neuralgia caused, he claims, from the gunshot wound on his head. His claim for pension was rejected by the Pension Bureau on the ground that the neuralgia which it is claimed causes his disability does not originate from the wound in the head, and an application for a rehearing was rejected on the same cause. Smith was examined at San Francisco, Cal., where he resides, February 28, 1872, by an examining board of surgeons, which reports as follows:

The applicant has a slight scar of the scalp on right side of occiput, the result of a wound by a bullet probably. The applicant states he has neuralgic pains in back part of head and neck; but he cannot establish the claim that the pain is dependent on the gunshot wound. Applicant has the appearance of being a hard drinker.

There is some evidence tending to show that the neuralgia under which Smith suffers may have arisen from his wound, but the weight of the testimony is decidedly otherwise.

The committee therefore recommend that the bill be indefinitely postponed.

H CONGRESS, 2d Session. | SENATE. | REPORT No. 175.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

PLATT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 551.]

: *Committee on Pensions, to whom was referred the bill (S. 551) grant-ng a pension to James O'Connor, having considered the same, respectfully eport:*

That said James O'Connor was first lieutenant of Company F, Twenty-enth Missouri Volunteers, and while in command of his company, or about March 1, 1865, his right leg was crushed between two Army gons, at Cheraw, S. C. The injury did not at once disable him, but marching and wading streams his leg became inflamed so that he uld not march, and he was on that account relieved from the com-and of his company and appointed acting quartermaster of the regi-ent, in which capacity he served until he was discharged, on the 18th July, 1865. He did not receive medical treatment while in service, d no record evidence exists of his disability at the time of discharge. is injury is fully established, however, by the affidavits of the colonel d major of his regiment and captain of his company. The certificate the examining surgeon shows that at present he is three-fourths dis-led in consequence of the condition of his leg at the point where he eived the injury, and that his disability is permanent. He does not tablish by medical evidence a continuous disability from the time of the jury to the present time, and his application for a pension filed March 1876, was rejected March 28, 1878, by the Commissioner, for want of cord evidence and on account of the absence of medical evidence owing the alleged disability existed in the service or at the date of scharge.

The physician who attended him soon after his discharge is dead. is neighbors testify to the existence of the disability at the time of dis-arge. His present family physician testifies to the present condition his leg. In view of all the evidence presented, including the certifi-te of the examining surgeon, the committee conclude that his present sability is the result of the injury received by the claimant in the ser-e and in the line of duty. They therefore recommend the passage of e bill.

O

6TH CONGRESS, 2d Session. } SENATE. { REPORT No. 176.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

r. PLATT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 132.]

he Committee on Pensions, to whom was referred the bill (S. 132) granting a pension to Fannie Lull, respectfully report:

Julius E. Lull was corporal, Company B, Third Wisconsin Cavalry, nd was shot by a member of the provost at Benton Barracks, Missouri, une 16, 1865.

Fannie Lull, his mother, filed an application with the Bureau of Pensions August 30, 1876. The claim was rejected February 21, 1878, upon he ground that the soldier when killed was not in the line of his duty; he record evidence, taken from final statements of his company commander, being that "he was killed at Benton Barracks, Missouri, June 6, 1865, by shot from provost guard, and not in line of his duty." The fidavit of a comrade is as follows: Michael Murphy, also a corporal, ompany B, Third Missouri Cavalry, says that the regiment was on s way home, being temporarily in Saint Louis; that one Adams, a rivate in the same company, was outside the camp, in a saloon near by, rinking; that Murphy asked Lull to go with him and get Adams back; at Lull asked Lieutenant Sharp for a pass to go out for that purpose, nd that Lieutenant Sharp said they might go without a pass. They ccordingly went to the saloon; found Adams; Lull talked with him arough the window, and Murphy went in; while trying to persuade dams to return the patrol guard came in sight and Lull started back or camp. The provost guard was composed of Missouri Home Guards, nd one of them, a boy about 16 years old, called to Lull to halt, firing imultaneously with the order, and killing him outright. This statement is corroborated by the affidavit of the quartermaster-sergeant, and s further corroborated as to the circumstances under which Lull left amp by Lieutenant Sharp, and the committee are of the opinion that he soldier was in the line of his duty. The application being rejected pon the ground that the record showed that he was not in the line of is duty, the question of the dependency of his mother upon him for upport was not passed upon by the Commissioner. Affidavits were iled to the effect that the husband of the applicant died May 1, 1867, early two years after the death of the soldier; that he left a homestead hich was sold, the applicant realizing only $300 therefrom. The affidavits state in a general way that the soldier contributed to the support f his parents both before and after enlistment, letting them have oney when they wanted it; but amounts and instances are not specied. It is shown that at one time, in the spring of 1865, the soldier sent

his brother, E. M. Lull, $40, which his said brother says he gave to the claimant. The letter in which this is sent was filed with four other letters, in which he promises to send money either to his mother or brother when he shall be paid off; but the only specific instance in which money is actually proved to have been sent home is the one above referred to.

Two neighbors testify substantially and in a general way to his having contributed to the support of his parents before and after enlistment; but it is manifest that most of their testimony cannot be from personal knowledge. This case has been investigated by a special agent, and an affidavit of the postmaster at Oshkosh, Wis, who was formerly county clerk, is filed in the case. This affidavit alleges that, in the opinion of the affiant, this case is based on fraud; that the county records disclose the fact that in 1872 and 1873 the applicant sold real estate to the amount of $2,000, and that she still owns a residence, the value of which is not stated; that she has two sons living, one of whom is a wealthy man, and the other in good circumstances.

The affidavits filed in the Pension Bureau to prove dependency are all in the same handwriting, and evidently were prepared by the same person. Nothing is shown as to the ability of the husband of the claimant to support her during the service of the soldier, except the fact already stated that he was possessed of a homestead. Taking all the evidence in the case into consideration, the committee are of the opinion that the dependency of the claimant and her support by the soldier were not proved, and therefore ask to be discharged from the further consideration of the bill, and recommend that the same be indefinitely postponed.

O

CONGRESS, } SENATE. { REPORT
Session. } { No. 177.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

LATT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 337.]

ommittee on Pensions, to whom was referred the bill (S. 337) granting a pension to James H. Poland, respectfully report:

t an application made by the claimant to the Bureau of Pensions pending, and, therefore, the committee recommend that the bill pass.

O

TH CONGRESS, 2d Session. | SENATE. | REPORT No. 178.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

r. MCDONALD, from the Committee on the Judiciary, submitted the following

REPORT:

he Committee on the Judiciary, to whom were referred the petition of S. W. Venable, of Petersburg, Va., praying that his claim for captured tobacco be referred to the Court of Claims, with right of appeal, and the petition of Dunlap & Crawford, of Louisville, Ky., praying that their claim for captured tobacco be referred to the Court of Claims, with right of appeal, report:

That in the opinion of your committee the prayers of the petitioners hould not be granted. Your committee, therefore, report adversely to he petitions, and ask the consideration of the same be indefinitely postoned.

O

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

PLATT, from the Committee on Pensions, submitted the following

REPORT:

Committee on Pensions, to whom was referred the petition of Joseph B. hollenburger, late private Company F, Fifth Iowa Infantry Volunteers, raying to be granted a pension, having considered the same, respectfully eport:

hat the claimant made application to the Pension Bureau February 1875, the alleged ground of pension being chronic diarrhea and scurvy. was examined April 7, 1875, and the examining surgeon reported that pensionable disability existed. The application was rejected by the nmissioner May 12, 1875. On the 26th of May, 1879, upon affidavits d, the case was reopened, and a re-examination was granted. On the of June, 1879, claimant was re-examined by a full board of examining geons, at Muscatine, Iowa, who report: "After carefully examining l soldier we fail to find any signs or symptoms of the diseases which has set up in his application for invalid pension." Upon this report claim was again rejected, June 11, 1879.

he committee see no reason why the action of the Commissioner uld be revoked, and therefore ask to be discharged from the further sideration of the petition.

O

TH CONGRESS, 2d Session. | SENATE. | REPORT No. 180.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

r. MCPHERSON, from the Committee on Pensions, submitted the following

REPORT:

he Committee on Pensions, to whom was referred the petition of Mrs. Emma M. Moore, praying for arrears of pension, have carefully examined the same, and report:

That they deem it inexpedient to grant arrears of pension by special ct. They therefore ask to be discharged from the further consideration f the petition, and recommend the indefinite postponement thereof.

O

ITH CONGRESS, 2d Session. | SENATE. | REPORT No. 181.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

r. PLATT, from the Committee on Pensions, submitted the following

REPORT:

he Committee on Pensions, to whom was referred the petition of Margaret Miller, praying for the passage of an act granting her arrears of pension, respectfully report:

That Margaret Miller is the widow of Cornelius Miller, who was a rivate in Company C, Thirty-seventh Massachusetts Volunteers, and ho enlisted July 16, 1862, was discharged February 13, 1863, and died larch 2, 1863. Application was made by the petitioner to the Bureau f Pensions for a pension, filed February 24, 1863, rejected March 2, 864, and rejection confirmed January 25, 1870; the ground of rejection eing that in his discharge certificate the reason of discharge is stated o be that his constitution was impaired by age and intemperate habits, hat his speech was deficient, and that all of said disqualifications exsted at the time of enlistment. A special act granting a pension to the etitioner was passed by Congress, approved March 3, 1873. Pursuant o said act a pension was granted to the petitioner, commencing from the ate of the act.

On the 13th of March, 1879, the petitioner applied for arrears of penion under the act of January 25, 1879, which application was rejected y the Commissioner, because said act does not extend to pensions which ave been granted by special act of Congress; and the petitioner now sks Congress to pass an act granting to her arrears of pension.

The committee are of opinion that it is inexpedient to extend the proisions of the act of January 25, 1879, so as to include a pension which as been granted in pursuance of a special act of Congress.

The committee therefore ask to be discharged from the further conderation of said petition.

O

CONGRESS, } SENATE. { REPORT
l Session. } { No. 182.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

PLATT, from the Committee on Pensions, submitted the following

REPORT:

Committee on Pensions, to whom was referred a petition of citizens of nderson County, Kansas, praying that a pension be granted to Thomas Rumbly, late of Company D, Ninth Regiment, Kansas Volunteers, re- ectfully report:

hat said Rumbly filed an application for a pension in the Bureau of isions September 30, 1872, which was rejected May 16, 1878, because same was barred under the provisions of section 4717, Revised Stat- . Said section having since been repealed, the case has been reopened, is now pending in said bureau.

he committee, therefore, ask to be discharged from the further con- ration of said petition, and that the same be referred to the Commis- er of Pensions.

O

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

r. PLATT, from the Committee on Pensions, submitted the following

REPORT:

he Committee on Pensions, to whom was referred the petition of Solomon S. Robinson, praying to be allowed a pension, respectfully report:

That the petitioner was a captain in the Sixteenth United States Inntry; that he resigned on the 23d of November, 1864, and his resignaon was accepted in February, 1865; that he applied for a pension May 5, 1874, upon the ground that his hearing had been impaired by the exlosion of a shell in a battle at Peach Tree Creek, near Atlanta, Ga., n the 20th of July, 1864. In his letter of resignation he said: "My easons are that my hearing, which was slightly defective when I enered the service, has become so much so as to interfere with the full erformance of my duties; also, I am not physically able to endure the xposures of camp-life any longer." In his petition he says that at the me of his resignation he "did not think his disability would interfere ith his gaining a support for himself and family." The application as rejected by the Commissioner upon the ground that it appeared from is resignation that the hearing of the petitioner was defective when he ntered the service.

The committee see nothing in this case to induce them to reverse the ction of the Commissioner, and, in view of all the evidence, and of the act that no application for a pension was made till about ten years fter the time when petitioner alleges that his hearing was impaired, onsider his case to be one of progressive deafness antedating his enstment. The committee therefore ask to be discharged from the furer consideration of the petition.

O

[CONGRESS, } SENATE. { REPORT
d Session. } { No. 184.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

MCPHERSON, from the Committee on Pensions, submitted the following

REPORT:

Committee on Pensions, to whom was referred the petition of Armstead odlow, late of Company E, Twenty-third Regiment United States Col- ed Troops, praying for arrears of pension, have carefully examined the me, and report:

hat they believe it inexpedient to grant arrears of pension by special They therefore ask to be discharged from the further consideration he petition, and recommend its indefinite postponement.

O

ONGRESS, } SENATE. { REPORT
Session. } { No. 185.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

CPHERSON, from the Committee on Pensions, submitted the following

REPORT:

Committee on Pensions, to whom was referred memorial of Haragg, report the same adversely, for the following reasons:
husband of the petitioner died out of service, and not by reason ıries received in the service. The widow has no title. (See sec-1728 and 4729 Revised Statutes.)

O

ONGRESS, } SENATE. { REPORT
Session. } { No. 186.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

NDLETON, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill S. 1195.]

necessity for the passage of this bill is to be found in the fact ome of the five per cent. bonds of the United States, which were y the Secretary of the Interior in trust for the Indian tribes, have alled in and paid by the Secretary of the Treasury, and under the authority exists for the investment of the money so realized.

law of January 9, 1837, volume 5, page 185, Statutes at Large, d Statutes, 2096, provides:

> ecretary of the Interior shall invest in a manner which shall be in his judg- ost safe, and beneficial for the fund, all moneys that may be received under containing stipulations for the payment to the Indians, annually, of interest proceeds of the lands ceded by them; and he shall make no investment of such , or of any portion, at a lower rate of interest than five per centum per annum.

law of September 11, 1841, volume 5, page 465, Statutes at Large d Statutes, section 3659, provides that:

> nds held in trust by the United States, and the annual interest accruing thereon, ot otherwise required by treaty, shall be invested in stocks of the United States, a rate of interest not less than five per centum per annum.

ler these laws large investments of Indian trust-funds were made bonds of the United States. On the 25th day of April, 1879, ecretary of the Interior held, as trustee for several Indian tribes, d States 5-20 six per cent. bonds, amounting to $399,950, which ncluded in a call of bonds for redemption then recently made by ecretary of the Treasury, interest ceasing April 24, 1879; also d States 10-40 five per cent. bonds, amounting to $86,400, which ncluded in a call for redemption, interest ceasing July 18, 1879.

only five per cent. bonds then outstanding were the funded loan ing in 1881. They commanded a high premium. The investment m would cause a loss to the principal of the trust fund. After nathrity there would be no bonds drawing a greater interest than nd one-half per cent. per annum. The Secretary of the Interior ed the funds arising from the payment of the called-in bonds in 4 nt. bonds of 1907, as a mere temporary arrangement to save what st he could until the authority proposed by this bill shall be con- upon him.

Secretary of the Interior on January 1, 1880, held bonds of the l loan maturing in 1881 amounting to $2,188,000, which it is ex- will soon be called in and paid. He also held bonds of the United , maturing at a later day, to the amount of about $300,000.

The bill reported by the committee provides that the moneys ar from the three sources, to wit, (1) the redemption of these United S bonds, (2) the sales of lands ceded by the Indians, (3) the sales o four per cent. bonds of the United States recently bought as a te rary investment, shall be deposited in the Treasury and shall dra terest at the rate required by law. The alternative is the inves in stocks and bonds other than those of the United States.

This plan of keeping the trust funds is not new. Under v treaties and resolutions, applicable only to specific cases, funds been deposited in the Treasury at five per cent. interest in lieu of i ment, and are now held there to the amount of $7,741,344.01, pay aggregate of interest annually to the amount of $387,067.17.

There is no diminution of principal by the payment of premium: is no loss of interest; there is no such trouble as is caused by cl of investment.

The accompanying papers exhibit the necessity for a change law as proposed: The opinion of the present Secretary of the In and of his predecessor; the wishes of the Indians who are inte and the exact condition of all the Indian funds held by the Secre the Interior January 1, 1880.

DEPARTMENT OF THE INTERIO
March 17

SIR: I have the honor to inclose herewith a draft or a bill authorizing me retary of the Interior, and trustee of various Indian tribes, to deposit certain the Treasury of the United States, in lieu of investment.

This department now holds coin checks, amounting to the sum of four and twenty-five thousand six hundred dollars ($425,600), received on ac the redemption of United States five-twenty bonds, belonging to the Indi fund.

I am obliged under the present laws to invest in United States bonds, an premium on every class of bonds is from four to eight per cent. higher than mium on coin, I cannot reinvest said amount without diminishing the princip hands as trustee, and in view of the high rate of premium which governme now command, and which they will command in the future, I am of the opin it will be for the interest of the Indians that said amount and all other sums by me hereafter as Secretary of the Interior and trustee of various Indian tr account of redemption of trust-fund bonds, be deposited in the United States in lieu of investment, and I have the honor to request the early and favorabl of Congress upon this subject.

Very respectfully,

Z. CHANDLE
Sec

Hon. WM. B. ALLISON,
Chairman Committee on Indian Affairs, U. S. Senate.

DEPARTMENT OF THE INTERIO
February 14

SIR: I have the honor to acknowledge the receipt of your letter of the 13th inclosing Senate bill No. 720, and asking information as to the amount of fu held by me as Secretary of the Interior and trustee of various Indian tribes, on of redemption of United States bonds belonging to the Indian trust fund.

In reply I have to say that there are no funds held by me at the present tim retary and trustee, on account of redemption of United States bonds belongin Indian trust fund, but as Secretary of the Interior, I hold in trust, for various tribes, a large amount of United States five-twenty bonds, which may be calle Secretary of the Treasury for redemption at any time.

I inclose herewith copy of a letter from Hon. Z. Chandler, late Secretary o terior, to Hon. Wm. B. Allison, chairman of Committee on Indian Affairs States Senate, dated March 17, 1876, transmitting a draft of the bill inclose letter, and showing that at the time said draft of the bill was transmitted, as S of the Interior and trustee of various Indian tribes, he held coin checks amo

our hundred and twenty-five thousand six hundred dollars ($425,600), on account of edemption of United States bonds belonging to the Indian trust fund, and that under xisting laws he was obliged to reinvest said funds in United States bonds, and that s the premium on bonds at that time was from four to eight per cent higher than the remium on coin, he could not reinvest said funds without diminishing the amount of he principal represented by said coin checks.

Said bill not having been passed at the last session of Congress, Secretary Chandler as obliged to invest said funds in United States bonds under the disadvantages above ientioned.

As Secretary of the Interior and trustee of various Indian tribes, I have been obliged invest funds received on account of the redemption of United States bonds under e same disadvantages, and I would therefore respectfully request the favorable action Congress upon said bill.

Very respectfully,

C. SCHURZ,
Secretary.

Hon. J. J. INGALLS,
United States Senate.

TREASURY DEPARTMENT, *April* 21, 1879.

SIR: I have the honor to call your attention to the opportunity now offered to your partment to convert any 5 per cent 10-40 bonds held in trust for Indians, or others, to 4 per cent. bonds. The power to make this conversion for trust funds held by the vernment, under the terms of the circular of April 16, was reserved in the recent le of bonds, but it should be exercised promptly.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. CARL SCHURZ,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
Washington, April 22, 1879.

SIR: I have the honor to acknowledge the receipt of your letter of the 21st instant, lling my attention to the opportunity now offered to this department to convert 5 er cent. 10-40 bonds held in trust by me as Secretary of the Interior, for various Indian ibes, into 4 per cent. bonds under the terms of the circular of your department of pril 16.

In reply I have to say that the second section of the act of Congress approved September 1, 1841 (5 Stats., p. 465; R. S. section 3659), directs that "all funds held in ust by the United States and the annual interest accruing thereon, when not otherise required by treaty, shall be invested in stocks of the United States, bearing a te of interest not less than five per centum per annum." As I am directed by this ct to invest all trust funds in United States bonds drawing a rate of interest of not ss than five per centum per annum, I am unable to accept the terms offered for the onversion of said bonds.

Very respectfully,

C. SCHURZ,
Secretary.

Hon. JOHN SHERMAN,
Secretary of the Treasury.

TREASURY DEPARTMENT, *April* 23, 1879.

SIR: I have the honor to acknowledge the receipt of your letter of the 22d instant, in which you state that you are unable to accept the terms offered for the conversion of the 10-40 bonds held by you in trust for Indian tribes.

I will thank you to furnish me a statement of the amount and numbers of the various 5-20 and 10-40 bonds thus held by you, so that a sufficient amount of 4 per cents to cover them may be reserved from sale, with a view to further legislation by Congress in respect to the rate of interest.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. CARL SCHURZ,
Secretary of the Interior

DEPARTMENT OF THE INTERIOR
Washington, April 25,

Hon. RICHARD COKE,
Chairman of Committee on Indian Affairs, United States Senate:

SIR: I have the honor to call your attention to an amended draft of Senate 720, Forty-fifth Congress, second session, inclosed herewith, authorizing the Se of the Interior, as trustee of various Indian tribes, to deposit certain funds Treasury of the United States in lieu of investment.

This department holds United States 5-20 6 per cent. bonds amounting to $ which were included in a late call of bonds for redemption by the Secretar Treasury, interest ceasing April 24, 1879. Eighty-six thousand four hundred ($86,400) United States 10-40 5 per cent. bonds belonging to the Indian trust fu been called, the interest on which will cease the 18th day of July next.

The second section of the act of Congress approved September 1, 1841, 5 S 465, Revised Statutes, section 3659, directs that "all funds held in trust by th States and the annual interest accruing thereon, when not otherwise requ treaty, shall be invested in stocks of the United States, bearing a rate of inte less than five per centum per annum."

Under the requirement of said act I am obliged to reinvest the above funds i States bonds drawing a rate of interest of not less than five per cent., and as s of that class now command a premium it will diminish the principal held thereby causing a loss of funds if such bonds be now purchased for reinvestm

The only bonds which can be purchased at the present time are the Unit five per cent. bonds, funded loan 1881, which mature in 1881, and after the of these there will be no United States stocks drawing a rate of interest e 4½ per cent., and it will then be impossible to make further investment at rate of interest.

I inclose herewith copy of a letter of Hon. John Sherman, Secretary of the T dated April 21, 1879, relative to the conversion of five per cent. 10-40 bond trust by this department for various Indian tribes into four per cent. bonds, of my reply thereto, dated the 22d instant, also copy of letter from the Sec the Treasury, dated the 23d instant, upon the same subject. I also inclose c letter from this department, dated March 17, 1876, transmitting a draft of the bill and copy of my letter to Senator Ingalls, dated February 14, 1878, reque favorable action of Congress upon said bill.

In view of the facts stated I have the honor to request that Congress take favorable action upon the proposed measure.

Very respectfully,

C. SCHURZ, *Se*

DEPARTMENT OF THE INTERI
Washington, December 1

Hon. GEO. H. PENDLETON,
United States Senate:

SIR: I have the honor to acknowledge the receipt of your letter of 17th in ferring to department letter of the 25th April last addressed to Hon. Richa chairman Committee on Indian Affairs, United States Senate, in relation t United States 5-20 six per cent. bonds and 10-40 five per cents belonging to t trust fund, which had been called and upon which the interest ceased in July last, respectively, asking what disposition had been made of said funds.

In reply I have to state that accompanying the letter to Senator Coke wa of a bill to authorize the inscribing of the funds in question upon the boo Treasury as a deposit, drawing five per cent. interest in accordance with the l provides that no lower rate of interest shall be accepted on Indian funds.

As no legislation was effected by Congress upon the subject presented, th ment invested the amounts in four per cent. bonds, with the view that the allowed on the purchase would bring the investment nearer the interest p than any other that could be effected.

Very respectfully,

A. B
Acting Se

WASHINGTON, D. C., *May 2*

Hon. RICHARD COKE,
Chairman Indian Committee, United States Senate:

SIR: We desire to present through you to the Senate our prayer for spe able action on the bill submitted to you by the honorable the Secretary of th

to placing the funds belonging to Indians as inscribed debt in the the United States, bearing 5 per cent. interest.

seen by a report from the Secretary, which accompanied draft of bill, portion of the Indian funds are already invested in that way, at that rate and that has really been the policy, and the purchase of stocks of fluctu- the exception. As Indian nations cannot profit by the rise of stocks, so not be subject to loss on account of their fall. Reductions of the principal anent funds to pay premiums has no authority in law, and is in plain treaty.

the rate of interest is concerned, the agreement when the investments was not less than 5 per cent., the act of 1834 regulating it; the treaty subject to the law, and was of the nature of an agreement, that rate was zed by many treaties, and by all the laws under which the bulk of the s are already placed in inscribed debt in the Treasury. We do not think disposed by an arbitrary act to change this existing status, where we have this reduction of the value of our property.

ile the government sells bonds for 4 per cent., she, by law, exempts them ation, general, State, or local. It is justly estimated that this exemption east 2 per cent., and it is a usual correct financial estimate to place the his character of investments at 6 per cent. when compared with other in- Of this exemption we have no benefits, and can have none; and this forced on us by giving us really less than to the citizens of the States. we would add that as the greater portion of these funds are permanent for benevolent institutions or educational interests, your honorable t not thus to cripple and weaken them.

respectfully,

W. P. ADAIR,
DAN'L H. ROSS,
Cherokee Delegation.

---

es of the United States:

EN OF THE SENATE AND HOUSE OF REPRESENTATIVES: A measure is before he Indian trust funds in the form of a certified debt. The measure was to you by the department, and an absolute necessity has arisen for it, as tates bonds, in which a portion of the funds have been placed, are called time, and the principal to some extent taken to pay premiums, without law. All of these funds were placed in the hands of your government ation of treaty and law, the statute providing that these moneys should ted at less than 5 per cent. Some of our stocks pay six and seven. The s first reported, we consider not an unfair measure, as it provided for the of all now in United States bonds at not less than 5 per cent. The amend- proposes to reduce the interest to 4 per cent. is an unjust and arbitrary uthority by the Government of the United States, which is at once the d the debtor of the Indians, and in taking such a step would act in specific or implied good faith in its own interest. More than half of the United States bears 5 and 6 per cent. To citizens of the United States holders it is exempt from taxation, which is worth 2 per cent. In addi- tizens can make it the basis of bank paper, which is denied us. If you unds into our own keeping, we could invest them in State stocks at 6, 7, . While we do not object to your placing all our United States stocks as bt at not less than 5 per cent., as the statutes now stand, we ask you not change this law for Indian investments for your own benefit without s. Most of those funds are for school, orphan, charitable purposes, and government and law, and are worthy of your fostering care.

respect, we remain,

WM. PENN ADAIR,
Assistant Principal Chief.
JOHN LYNCH ADAIR,
R. BUNCH,
R. M. WOLFE,
Cherokee Delegation.

DEPARTMENT OF THE INTERIOR
Washington, January 12,

HON. GEORGE H. PENDLETON,
United States Senate:

SIR: In compliance with your verbal request, I have the honor to transmit he the following statements relative to the Indian trust funds, viz:

Statement marked A, showing the amount and description of Indian trus bonds in the hands of the Treasurer of the United States as custodian, under Congress of June 10, 1876, held by the Secretary of the Interior in trust for Indian tribes on the 1st of January, 1880, and the annual interest on the sam additional statement showing the amount and description of Indian trust fund abstracted in 1860.

Statement marked B, showing the names of Indian tribes for whom bonds a in trust by the Secretary of the Interior; the date of treaty or law under whi investments were made; the amount standing to the credit of each tribe, and t of interest stipulated by treaties or acts of Congress.

Statement marked C, showing the amount of 5 per cent. bonds held in trust government for various Indian tribes in lieu of investment.

Statement marked D, showing the amount of State stocks and United State in the hands of the Treasurer of the United States as custodian, held by the Se of the Interior as trustee of various Indian tribes, on the 1st of January, 18 showing which of the State stocks are non-paying.

Statement C, transmitted herewith, shows that on $7,740,344.01, deposited Treasury of the United States and held in trust by the government for various tribes in lieu of investment, interest is paid at the rate of 5 per centum per an

The act of Congress approved September 1, 1841 (5 Stat. p. 465), directs th funds held in trust by the United States and the annual interest accruing t when not otherwise required by treaty, shall be invested in stocks of the States bearing a rate of interest of not less than five per centum per annum."

I inclose herewith printed copy of the original Senate bill No. 614, 44th Co 1st session, which, with the alterations made therein in writing, should, in my o be substituted for the amended bill referred to, and I have the honor to reque such action may be taken by Congress.

Very respectfully, your obedient servant,

Secr

[S. 614.—44th Congress, 1st session.]

MARCH 20, 1876.—Mr. ALLISON asked and, by unanimous consent, obtained l bring in the following bill; which was read twice, referred to the Commi Indian Affairs, and ordered to be printed:

A BILL to authorize the Secretary of the Interior to deposit certain funds in the United States in lieu of investment.

Be it enacted by the Senate and House of Representatives of the United States of in Congress assembled, That the Secretary of the Interior be, and he is hereby, ized to deposit in the Treasury of the United States any and all sums now him, or which may hereafter be received by him, as Secretary of the Inter trustee of various Indian tribes, on account of the redemption of United State or other stocks and securities belonging to the Indian trust fund, and all sums r on account of sales of Indian trust funds, whenever he is of the opinion that interests of the Indians will be promoted by such deposits, in lieu of investme the United States shall pay interest thereon, semi-annually, at the rate of centum per annum from the date of deposit of any and all such sums in the States Treasury, as the same may become due, without further appropriation gress.

ement showing the amount and description of Indian trust fund bonds in the hands Treasurer of the United States as custodian, under act of June 10, 1876, held by the ry of the Interior in trust for various Indian tribes, on the 1st of January, 1880, e annual interest on the same.

Description of bonds.	Per cent.	Amount.	Annual interest.
national fund:			
of Florida	7	$13,000 00	$910 00
of Louisiana	6	11,000 00	660 00
of North Carolina	6	28,000 00	1,680 00
of South Carolina	6	118,000 00	7,080 00
of Tennessee	5	125,000 00	6,250 00
of Virginia	6	90,000 00	5,400 00
d States issue to Union Pacific Railroad (eastern division)	6	156,638 56	9,398 31
d States bonds, funded loan of 1881	5	241,052 47	12,052 62
d States consols of 1907 (temporary investment)	4	161,950 00	6,478 00
Total		944,641 03	49,908 93
school fund:			
of Florida	7	7,000 00	490 00
of North Carolina	6	13,000 00	780 00
of South Carolina	6	1,000 00	60 00
of Virginia (Chesapeake and Ohio Canal)	6	1,000 00	60 00
of Louisiana	6	2,000 00	120 00
d States issue to Union Pacific Railroad (eastern division)	6	51,854 28	3,111 26
d States funded loan of 1881	5	283,262 25	14,163 11
d States bonds, consols of 1907	4	156,470 29	6,258 81
Total		515,586 82	25,043 18
orphan fund:			
d States issue to Union Pacific Railroad (eastern division)	6	22,223 26	1,333 40
d States funded loan of 1881	5	162,032 02	8,101 60
d States bonds, consols of 1907	4	59,545 00	2,381 80
Total		243,800 28	11,826 80
asylum fund:			
d States bonds, funded loan of 1881	5	64,147 17	3,207 36
w national fund:			
of Arkansas	6	168,000 00	10,080 00
of Maryland	6	8,350 17	501 01
of Tennessee (Nashville and Chattanooga Railroad Company)	6	512,000 00	30,720 00
of Tennessee (East Tennessee and Georgia Railroad Company)	6	104,000 00	6,240 00
of Tennessee (Nashville, Memphis and Shelbyville Turnpike Company)	5¼	66,666 66⅔	3,500 00
of Virginia (Richmond and Danville Railroad Company)	6	100,000 00	6,000 00
d States loan of 1881	6	500 00	30 00
d States funded loan of 1881	5	347,147 98	17,357 40
Total		1,306,664 81⅔	74,428 41
w incompetents:			
of Indiana	5	2,000 00	100 00
and Christian Indians:			
d States funded loan of 1881	5	15,997 98	799 90
d States bonds, consols of 1907 (temporary investment)	4	26,562 38	1,062 50
Total		42,560 36	1,862 40
general fund:			
of Virginia	6	450,000 00	27,000 00
d States funded loan of 1881	5	3,689 00	184 45
Total		453,689 00	27,184 45
school fund:			
d States funded loan of 1881	5	48,045 50	2,402 27
d States bonds, consols of 1907 (temporary investment)	4	1,427 20	57 09
Total		49,472 70	2,459 36

A.—*Statement showing amount and description of bonds, &c.*—Continued.

Description of bonds.	Per cent.	Amount.	Annu tere
Creek orphan fund:			
State of Tennessee	5	$20, 000 00	$1,
State of Virginia (Richmond and Danville Railroad Company)	6	3, 500 00	2
State of Virginia (Chesapeake and Ohio Canal Company)	6	9, 000 00	5
United States funded loan of 1881	5	2, 693 66	1
State of Virginia registered certificates	6	41, 800 00	2,
Total		76, 993 66	4,
Delaware general fund:			
State of Florida	7	53, 000 00	3,
State of North Carolina	6	7, 000 00	
Do	6	80, 000 00	4,
United States issue to Union Pacific Railroad (eastern division)	6	49, 283 90	2,
United States funded loan of 1881	5	267, 217 72	13,
Total		456, 501 62	25,
Delaware school fund:			
United States funded loan of 1881	5	11, 000 00	
Iowas:			
State of Florida	7	22, 000 00	1,
State of Louisiana	6	9, 000 00	
State of North Carolina	6	21, 000 00	1,
State of South Carolina	6	3, 000 00	
United States funded loan of 1881	5	42, 780 07	2,
United States bonds, consols of 1907 (temporary investment)	4	7, 000 00	
Total		104, 780 07	5,
Kansas schools:			
United States funded loan 1881	5	12, 744 25	
United States bonds, consols of 1907 (temporary investment)	4	14, 430 16	
Tota		27, 174 41	1,
Kaskaskias, Peorias, Weas, and Piankeshaws:			
State of Florida	7	16, 300 00	1,
State of Louisiana	6	15, 000 00	
State of North Carolina	6	43, 000 00	2,
State of South Carolina	6	3, 000 00	
United States funded loan of 1881	5	2, 739 01	
United States bonds, consols of 1907 (temporary investment)	4	3 85	
Total		80, 042 86	4,
Kickapoos:			
United States funded loan 1881	5	128, 569 91	6,
Menomonees:			
State of Tennessee	5	19, 000 00	
United States funded loan 1881	5	134, 039 38	6,
Total		153, 039 38	7,
Osage schools:			
United States funded loan 1881	5	39, 911 53	1,
Ottawas and Chippewas:			
State of Tennessee	5	1, 000 00	
State of Virginia (Chesapeake and Ohio Canal Company)	6	3, 000 00	
United States funded loan of 1881	5	14, 745 00	
Total		18, 745 00	
Pottawatomies—education:			
State of Indiana	5	4, 000 00	
United States funded loan 1881	5	72, 947 12	3,
Total		76, 947 12	3,
Pottawatomies—mills:			
United States funded loan 1881	5	17, 066 44	
Prairie band of Pottawatomies:			
United States funded loan of 1881	5	89, 618 57	4,
Senecas:			
United States funded loan of 1881		40, 979 60	2,

A.—*Statement showing amount and description of bonds, &c.*—Continued.

Description of bonds.	Per cent.	Amount.	Annual interest.
nd Foxes of the Mississippi:			
nited States funded loan of 1881	5	$858 21	$42 91
nited States bonds, consols of 1907 (temporary investment)	4	54,200 00	2,168 00
Total		55,058 21	2,210 91
nd Foxes of the Missouri:			
nited States funded loan of 1881	5	14,659 12	732 96
nited States bonds, consols of 1907 (temporary investment)	4	7,000 00	420 00
Total		21,659 12	1,152 96
as and Shawnees:			
nited States funded loan of 1881	5	7,379 30	368 96
nited States bonds, consols of 1907 (temporary investment)	4	7,761 12	310 44
Total		15,140 42	679 40
as—Tonawanda band:			
nited States funded loan of 1881	5	86,950 00	4,347 50
nees:			
nited States funded loan of 1881	5	4,835 65	241 78
rn Shawnees:			
nited States funded loan of 1881	5	11,079 12	553 95
akias, Peorias, &c., school fund:			
tate of Florida	7	20,700 00	1,449 00
nited States funded loan 1881	5	20,711 97	1,035 59
Total		41,411 97	2,484 59

Statement showing the amount and description of bonds abstracted in 1860.

Description of bonds.	Per cent.	Amount.	Annual interest.
uri	6	$370,000 00	$22,200 00
Carolina	6	357,000 00	21,420 00
nnee	6	143,000 00	8,580 00
Total		870,000 00	52,200 00

B.—*Statement showing the names of Indian tribes for whom bonds are held in trust by th Secretary of the Interior, the date of treaty or law under which the investments were mad the amount standing to the credit of each tribe, and the rate of interest stipulated by treati or acts of Congress.*

Tribes.	Treaty or act.	Stats. at Large. Vol.	Page.	Art. or sec.	Amount.	Rate of interest stipulated by tre ties or acts of Congress.
Cherokee national fund	Dec. 29, 1835	7	482	10	$944,641 03	Rate per cent. n specified.
Cherokee school fund	Feb. 27, 1819	7	195	4	515,586 82	Do.
	Dec. 29, 1835	7	482	10		
Cherokee orphan fund	Dec. 29, 1835	7	482	10	243,800 28	Do.
	Feb. 14, 1873	17	462	4		
Cherokee asylum fund	Feb. 14, 1873	17	462	4	64,147 17	Do.
Chickasaw national fund	Oct. 20, 1832	7	385	11	1,306,664 81⅔	Do.
	May 24, 1834					
	June 20, 1878					
Chickasaw incompetents	May 24, 1834	7	454	11	2,000 00	Do.
Chippewa and Christian Indians	July 15, 1859	12	1107	3	42,560 00	Rate, 5 per cent.
Choctaw general fund	Jan. 17, 1837	7	605	.....	453,689 00	Rate per cent. n specified.
Choctaw school fund	Sept. 27, 1830	7	333	.....	49,472 70	Do.
Creek orphans	May 24, 1832	7	366	.....	76,993 66	Do.
Delaware general fund	May 6, 1854	10	1050	7	456,501 62	Do.
Delaware school fund	Sept. 24, 1829	7	327	.....	11,000 00	Do.
Iowas	May 17, 1854	10	1070	5	104,780 07	Do.
	Mar. 6, 1861	12	1172	3		
Kansas schools	June 3, 1825	7	245	3	27,174 41	Do.
Kaskaskias, Peorias, Weas, &c	May 30, 1854	10	1084	7	80,042 86	Rate, 5 per cent.
	Feb. 23, 1867	15	519	24		
Kickapoos	June 28, 1862	13	625	5	128,569 91	Do.
Kaskaskias, &c., school fund	Feb. 23, 1867	15	519	24	41,411 97	Do.
Menomonees	Sept. 3, 1836	7	506	.....	168,039 38	Rate not specifie
Osage schools	June 2, 1825	7	242	6	39,911 53	Do.
Ottawas and Chippewas	Mar. 28, 1836	7	492	4	18,745 00	Do.
Pottawatomie education	Sept. 26, 1833	7	432	3	76,947 12	Do.
Pottawatomie mills fund	Sept. 26, 1833	7	432	3	17,066 44	Do.
Pottawatomies, Prairie band	.....	.....	.....	.....	89,618 57	Do.
Sacs and Foxes of the Mississippi	Feb. 18, 1867	15	495	3	55,058 21	Rate, 5 per cent.
Sacs and Foxes of the Missouri	Mar. 6, 1861	12	1172	3	21,659 12	Do.
Senecas	June 14, 1836	5	47	4	40,979 60	Do.
	Jan. 9, 1837	5	135	3		
Senecas and Shawnees	June 14, 1836	5	47	4	15,140 42	Do.
	Jan. 9, 1837	5	135	3		
Senecas, Tonawanda band	Nov. 5, 1857	11	737	6	86,950 00	Rate not specifi
Shawnees	Feb. 23, 1867	15	515	6	4,835 65	Rate, 5 per cent
Eastern Shawnees	Feb. 23, 1867	15	515	6	11,079 12	Do.
					5,180,066 66⅔	

Statement of 5 per cent. funds held in trust by the government in lieu of investment.

Tribes.	Date of acts, resolutions, or treaties.	Stats. at Large. Vol.	Page.	Sec.	Amount in the United States Treasury.	Annual interest at 5 per ct.
.....	Jan. 20, 1825 June 22, 1855	7 11	236 614	9 3	$390, 257 92	$19, 512 89
.....	June 14, 1866 Aug. 7, 1856	14 11	786 701	3 6	675, 168 00 200, 000 00	33, 758 40 10, 000 00
.....	July 15, 1870 June 5, 1872	16 17	362 228	....	721, 748 80	36, 087 44
.....	May 7, 1854	10	1071	9	57, 500 00	2, 875 00
.....	June 14, 1846	9	842	2	200, 000 00	10, 000 00
.....	May 18, 1854	10	1079	2	93, 587 09	4, 679 05
'Indiana	June 5, 1854	10	1099	4	221, 257 86	11, 062 89
'Kansas	June 5, 1854	10	1094	3	21, 884 81	1, 094 24
.....	June 2, 1825 Sept. 29, 1865 July 15, 1870 May 9, 1872	7 14 16 17	242 687 362 91	6 1 12 2	69, 120 00 300, 000 00 1, 216, 257 29	3, 456 00 15, 000 00 60, 812 86
nies	June 5, 1846 June 17, 1846	9	854	7	230, 064 20	11, 503 21
xes of the Mississippi	Oct. 2, 1837	7	541	2	200, 000 00	10, 000 00
xes of the Missouri	Oct. 11, 1842 Oct. 21, 1837	7 7	596 543	2 2	800, 000 00 157, 400 00	40, 000 00 7, 870 00
.....	Aug. 7, 1856	11	702	8	500, 000 00	25, 000 00
New York	May 21, 1866 June 27, 1846	14 9	757 35	3 2, 3	70. 000 00 118, 050 00	3, 500 00 5, 902 50
.....	May 10, 1854	10	1056	3	40, 000 00	2, 000 00
s and Munsees	Feb. 6, 1871	16	405	4, 5	75, 804 46	3, 790 22
es	Nov. 1, 1837	7	546	4	804, 909 17	40, 245 45
and other bands of Utes	July 15, 1870 Apr. 29, 1874	16 18	355 41	 2	78, 340 41 500, 000 00	3, 917 02 25, 000 00
of 5 per cent. funds held by vernment in lieu of investment	.....	.....	.....	.....	7, 741, 344 01	
of annual interest	.....	.....	.....	.....	.....	387, 067 17

D.—*Statement showing the amount of State stocks and United States bonds in the hands the Treasurer of the United States, as custodian, held by the Secretary of the Interior trustee of various Indian tribes, on January* 1, 1880.

Stocks.	Per cent.	Amount.
State of Arkansas	6	$168,000
State of Florida	7	132,000
State of Indiana	6	6,000
State of Louisiana	6	37,000
State of Maryland	6	8,350
State of North Carolina	6	192,000
State of South Carolina	6	125,000
State of Tennessee	6	512,000
Do	6	104,000
Do	5½	66,666
Do	5	165,000
State of Virginia	6	698,300
United States issue to Union Pacific Railroad Company (eastern division)	6	280,000
United States loan of July and August, 1861	6	500
United States funded loan, 1881	5	2,188,900
United States bonds—consols of 1907 (temporary investment)	4	496,350
Total	.....	5,180,066

RECAPITULATION.

Amount of State stocks	$2,214,316 83⅓
Amount of United States stocks	2,965,750 00
Total	5,180,066 83⅓

NON-PAYING STATE STOCKS.

State of Arkansas	6	168,000
State of Florida	7	132,000
State of Louisiana	6	37,000
State of North Carolina	6	192,000
State of South Carolina	6	125,000
State of Tennessee	.....	335,666
State of Virginia	6	594,800
Total*	.....	1,584,466

PAYING STATE STOCKS.

State of Indiana	5	6,000
State of Maryland	6	8,350
State of Tennessee (Nashville and Chattanooga Railroad Company)	6	512,000
State of Virginia (Richmond and Danville Railroad Company)	6	103,500
Total	.....	629,850

* NOTE.—Congress makes appropriations annually to meet the interest on the above non-paying stoc

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 187.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

Mr. GROOME, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 208.]

The Committee on Pensions, to whom was referred the bill (S. 208) granting a pension to Archibald Nelson and John Nelson, minor children of John Nelson, after careful examination, report:

That the elder John Nelson was a private in Company H, Seventeenth United States Infantry, and was discharged from the service by reason of the loss of his right arm, caused by a gunshot wound received at Manassas on August 30, 1862. He was placed upon the pension-rolls, and continued to draw his pension until his death on October 14, 1872. He left a widow, Margaret, and two children, Archibald, who will attain the age of sixteen on October 18, 1883, and John, who will attain that age on March 18, 1885. Application was promptly made for a pension for his widow and children, which was rejected because it was not proved that the soldier died of disease contracted in the service in the line of duty. The only evidence as to the cause of the death is the affidavit of the widow, who swears that on or about October 7, 1871, her husband returned from his work complaining of feeling badly and suffering great pain in the stump of his arm and in the back; that this pain lasted for several days, but was not considered serious until October 14, 1871, when she became alarmed, and dispatched a messenger for a physician, but before he arrived her husband died. The fact that the messenger was sent, and that the physician did not arrive before the soldier's death, is corroborated by the messenger, who adds the further fact that after the soldier's death he saw the physician on his way to visit the soldier, and informed him of the soldier's death, and that the physician, not deeming it necessary to go further, returned home.

After the rejection by the Pension Bureau of the claim of the widow and children application was made for relief to Congress, which passed an act, approved June 8, 1872, authorizing and directing the Secretary of the Interior "to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret Nelson, widow of John Nelson," &c. This pension the widow forfeited by her remarriage on July 14, 1874, and on June 27, 1875, she died. The Commissioner of Pensions, upon being applied to on behalf of the children, decided that the special act, under the provisions of which the widow was pensioned, does not extend the right to the pension to the children upon the death or remarriage of the widow.

We recommend the passage of the bill.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 188.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

r. GROOME, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 382.]

he Committee on Pensions, to whom was referred the bill (S. 382) granting a pension to Ellen W. P. Carter, have carefully considered the same, and report:

That the letter of the Commissioner of Pensions, herein quoted at ngth, fully and correctly explains the case:

DEPARTMENT OF THE INTERIOR,
PENSION OFFICE,
Washington, D. C., April 5, 1879.

SIR: I have the honor to acknowledge receipt, by your reference, of the inclosed tter of Ellen W. P. Carter, dated the 25th ultimo, relative to her claim, No. 188,521, widow of A. Carter, and, in reply, to inform you that it was rejected September 2, 70, on the ground that the claimant's husband was not in the United States service. he claim appears meritorious, as will be seen from the following statement, but ere is no authority under the general pension laws for its allowance. It appears at the claimant's husband was a member of the Seventh Tennessee Infantry, which as organized by Colonel Clift, inside the rebel lines, with the intention of making way through said lines to join the Federal Army, then in Kentucky. While en ute for their destination the rendezvous was found by a rebel scout, who reported e fact, and they were attacked by superior forces and a great number killed, among em Mr. Carter. There are no official records of the organization on file in either the ar Department or the office of the adjutant-general of Tennessee, because those who caped were attached to other organizations; but the above statement is made from e parol testimony among the files of the claim.

Very respectfully,

J. W. BENTLEY,
Commissioner.

Hon. ISHAM G. HARRIS,
United States Senate.

Your committee feel justified, upon the state of facts set out in that tter, in reporting back the bill with a recommendation that it pass.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 189.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

Mr. GROOME, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 338.]

The Committee on Pensions, to whom was referred the bill (S. 338) granting a pension to Dederick Blanck, having duly examined the same, report:

That they are satisfied the said Blanck was physically sound when mustered into the service in October, 1862. On May 13, 1863, he was discharged by reason of disability caused by "inguinal hernia" on the right side, and enlargement of the "spermatic cord," rendering him unfit for military duty. His disability still continues, is permanent, and is rated at one-half.

The evidence that the disability was incurred in the line of duty is not entirely satisfactory, but is sufficient, in the judgment of the committee, to entitle him to a pension. They therefore recommend the passage of the bill as amended.

H CONGRESS, 2d Session. } SENATE. { REPORT No. 190.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

. GROOME, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1197.]

he Committee on Pensions, to whom was referred the memorial of Theodore L. Sayre and others, praying the passage of an act granting a pension to Col. Peter Claesgens, of Utica, N. Y., have carefully investigated the subject-matter, and report:

That the said Peter Claesgens was, on June 15, 1863, captain of Company F, One hundred and forty-sixth New York Infantry. He afterards became by successive promotions major and lieutenant-colonel hereof, and was honorably mustered out of the service on July 16, 1865.

He claims a pension because of alleged disability caused by neuralgia, eakness of eyesight, loss of memory, &c., resulting from a sunstroke eceived upon June 15, 1862, while upon a march between Manassas nd Green Springs, near Aldie, Va.

This claim has been rejected by the Pension Bureau for the reason at there is, in its opinion "no pensionable disability traceable to the ervice satisfactorily."

In the opinion of the committee the said Peter Claesgens has, by the estimony of his regimental surgeon and by other medical testimony, ully established the fact that he was in sound and robust health when e entered the service. He has proved by the said surgeon and several f the officers of his company that he received the sunstroke at the time nd under the circumstances claimed by him, and he has proved by hysicians and others that from the time of his discharge from the Army e has suffered from neuralgia, defective eyesight, and loss of memory, s claimed by him, unfitting him to a great extent for regular manual abor.

The Pension Bureau directed an examining surgeon to examine the aid Claesgens and report the result. The surgeon reported him onelf incapacitated from obtaining his subsistence by manual labor by eason of disability resulting from the causes already set out, and that e believed that the said disability did originate in the service in the ine of duty.

The Pension Bureau directed that a new examination should be had efore another examining surgeon, which resulted like the first, except hat the surgeon making the new examination reported him as threeourths incapacitated.

The committee think that the said Peter Claesgens has fully estabshed his claim to be placed upon the pension rolls, and accordingly ccompany this report with a bill for his relief, which they recommend ay be passed.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 191.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT

The Committee on Pensions, to whom was referred the petition of John Snider, of Randolph County, West Virginia, for pension, have examined the same and the papers therewith submitted, and report:

The certificates of Col. George R. Latham, of the Fifth Regiment West Virginia Cavalry Volunteers (Union) and of Brevêt Maj. Gen. B. F. Kelly show clearly that John Snider, during the early part of the war of the rebelliona, cted as a scout for the Union Army; that he in that capacity was "vigilant, bold, active, and reliable"; that while so serving he was twice severely wounded (gunshot wounds), one in the left groin and again in the left hand, and the certificate of Colonel Latham that "from the effect of these wounds he is wholly disabled from following his usual avocation of farming and is dependent upon his friends for a support."

An application for pension to the Pension Bureau would have been useless, for the reason that Snider was not an enlisted man. He is not entitled to a pension under the law, and your committee do not feel at liberty to report a bill in his favor. They ask to be discharged from further consideration of the petition.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 192.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 2, 1880.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Jesse F. Phares for a pension have examined the same and the papers therewith submitted, and report:

The facts in the case are few and clearly proven: At the outbreak of the rebellion was a resident of Randolph County, in the State of Virginia; that he entered the service of the government about the month of June, 1861, as a scout, serving under Generals McLellan, Milroy, Kelly, and others, and by reason of his intimate knowlege of the country and his intelligence, zeal, and daring, rendering very valuable service to the Union cause. In April, 1863, the Confederate General Imboden advanced upon the Union forces at Beverly, W. Va., commanded by Col. Geo. R. Latham, commanding Fifth West Virginia Cavalry. In the advance Phares, who was then on duty outside the Union pickets, was surprised by a party of Confederate troops, and refusing to halt when ordered, was shot through the body, but retained his saddle until he reached the Union lines. The following are extracts from the affidavits of Col. Geo. R. Latham, Fifth Regiment West Virginia Cavalry (Union), and of Lieut. Col. Elihu Hutton, Twentieth Regiment Virginia Cavalry (Confederate).

Colonel Latham says:

On the 23d day of April, 1863, I was in command of the Federal forces stationed at Beverly, W. Va., and said Phares, then scouting outside my pickets, was cut off by a party of the enemy then advancing under General Imboden to attack me, and in endeavoring to dash past them was badly wounded by a musket-ball passing through his body, through the lungs, from the effects of which he is almost wholly disabled, and is failing rapidly in strength and general health. Though so badly wounded, he retained his saddle until he reached my pickets, and gave the first intimation that I had of the advance of the enemy. I was compelled to evacuate Beverly, and Phares fell into the hands of the enemy. He had at the time several thousand dollars worth of goods and personal property, all of which was taken from him, leaving him and his family in very destitute and distressed circumstances, from which they have been unable to recover.

Lieutenant-Colonel Hutton says:

During the late civil war I was lieutenant-colonel of the Twentieth Regiment Virginia Cavalry (Confederate service), and served principally on the West Virginia frontier, where it was well known who were acting as scouts and guides for the Federal forces in that vicinity, and said Jesse F. Phares was well known to be one of the most active and dangerous scouts and guides operating against us. His knowledge of the country was thorough; he was *smart*, daring, and vigilant, and capable of great endurance. In consequence of the knowledge we possessed of this fact, every possible exertion was made on our part to capture him, but without success until the 23d day of April,

1863, when General Imboden advanced upon the Federal forces then statione Beverly, commanded by Col. George R. Latham.

In order to cut off all scouts that might be outside the Federal pickets, we by night a party of men through the woods to gain the road near the outside Fe picket post before daylight on the morning of April 23, 1863. About daylight Phares, who was thus cut off, approached said party of men on horseback and ordered to halt, but dashed forward and past the men, when he was fired up them, one ball taking effect, passing through his body—through the lungs—fro effects of which he is now almost wholly disabled. He retained his seat, how until he reached the Federal picket and gave information of our advance.

Beverly was evacuated the same day by the Federal forces and occupied b Confederates, and Phares fell into our hands.

He was cared for by me personally about fifteen days, but a large amount of g general merchandise, groceries, &c., household furniture, and other personal pro to the value of several thousand dollars, fell into Confederate hands and was us destroyed by them, leaving him and his family in very destitute circumstanc which condition, principally in consequence of his disability, they remain to this He has four children living, and one, his oldest, a daughter, died of consum in 1870, induced by hardships and exposure, and his wife is worn down by car labor.

Said Phares is about 43 years of age, and has been for several years failing ra in physical strength, in consequence of the wound above referred to.

J. R. Blair, an examining surgeon for the Pension Office in the S of West Virginia, certifies, under date of December 24, 1879, tha has carefully examined Phares and finds "that his left hip was ent by a musket-ball, which passed upward through the region of the l part of the left lung and out near the stomach. The effect of the w is to weaken and partially paralize the entire left side, and, in my j ment, produces at least a two-thirds disability, which will incre The petitioner has not made application for a pension to the Pen Office, as under the uniform ruling of that office he was not entitl a pension for the reason that he was not a regularly enlisted soldie

For the same reason the committee do not feel at liberty to rep bill in favor of the petitioner, and ask to be discharged from fu consideration of the petition.

C

)ONGRESS, } SENATE. { REPORT
Session. } { No. 193.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1880.—Ordered to be printed.

)GAN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 965.]

ommittee on Military Affairs, to whom was referred the bill (S. 965) for the relief of D. T. Kirby, respectfully report:

t on the breaking out of the war of the rebellion D. T. Kirby was ' the first of the citizens of Missouri to offer his services to the al government, and that he recruited, maintained, and organized antry company of one hundred men, which was mustered into the e in June, 1861, as Company E, Eighth Missouri Volunteer Infantry, f which he was mustered as captain. In the same month he ac- nied his regiment to the field, when it joined the troops under ; at Paducah, Ky., and thereafter made part of the Army that red Fort Henry and Fort Donelson, and took part in the battles iloh and Corinth, and all of the marches, battles, sieges, and as- of the Army of the Tennessee that resulted in the capture of isas Post, Vicksburg, Mission Ridge, Atlanta, Savannah, and borough, and culminated in the surrender of Johnston's Army of ennessee at Durham Station, in North Carolina.

ing this four years' service he held, consecutively, the commissions tain, major, and lieutenant-colonel; received four severe wounds, as an active, intelligent, daring officer, and at the conclusion of ar was honorably mustered out of the military service of the d States with the brevet commissions of colonel and brigadier-gen- f volunteers, and the highest commendation from Generals Grant, ian, Logan, Blair, and other officers with whom he served.

the reorganization of the Regular Army he was appointed a cap- f the Thirty-ninth United States Infantry, and received the reg- brevets of major, for Chickasaw Bayou, Miss.; lieutenant-colonel, sault on Vicksburg; and colonel, for Mission Ridge, Tenn., and s Bridge, S. C.

ile serving with his regiment at Fort Pike, La., he was court- aled on various charges and specifications. There were seven s detailed for this trial, who assembled at the time and place l in the order. The accused and the judge-advocate-general de- to challenge any one of the detail, and the court was accordingly ized with seven members, and proceeded with the trial. On the day of the trial one of the members of the court was excused from r attendance on account of sickness, and at the same time the advocate challenged the president of the court because he be

lieved him to be favorably disposed towards the accused. The ac objected to the court entertaining the challenge, declaring the j advocate's motion to be in violation of all law and precedents gove criminal trials both in civil and military courts, and especially r nant to the 889th paragraph of the Army Regulations, which de that "the seventy-sixth Article of War does not confer on a court-m the power to punish its own members."

Notwithstanding this objection of the accused the court deter to entertain the challenge, and on further motion of the prosecu ordered the accused and his counsel to be excluded from the court and, with closed doors, spent nine days in trying the challenge, in open session, it sustained the challenge, and, dismissing the pres proceeded with five members to the conclusion of the trial, when nounced the sentence of dismissal against the accused.

When this action of the court came before the department comm who had ordered the court, for his review and official action, he it: "The action of the court in declaring the seat of General vacant after he had been duly sworn to properly try the case, a trial had commenced, was a fatal error in its proceedings."

In view of the fact that the charges were not fully sustained evidence; that the court was unquestionably disorganized by the e illegal expulsion of the president and incapable of pronouncing a sentence, and the fact that the act of July 13, 1866 (Stat. L., vol. 92), declares that "no officer in the military or naval service of the States shall, in time of peace, be dismissed from service excep and in pursuance of the sentence of a court-martial to that effect commutation thereof," and of the exceptionally good war record officer, your committee recommend that the bill (S. 965) be passe amendments.

HEADQUARTERS SEVENTEENTH ARMY CORP
Louisville, Ky., June 16,

GENERAL: I have the honor to request that Dennis T. Kirby, lieutenant Twenty-seventh Missouri Infantry, now on duty with me as picket-officer, be ted brigadier-general.

Lieutenant-Colonel Kirby entered the service in May, 1861, as captain Eigh souri Regiment, and with his regiment participated in the Missouri campai battles of Fort Donelson and Shiloh. During the advance on Corinth he w moted to major for gallantry at Russell House. He again distinguished hi Chickasaw Bayou, and was wounded at Arkansas Post, after which he parti in the campaign against Vicksburg, when, in the first assault, he volunteered the storming column. He had charge of the advance which crossed the Te River in ponton boats and captured the enemy's pickets, the success of wh tributed so much to the grand and decisive results of the battles which fo He commanded his regiment up to Kenesaw Mountain. In August, 1864, transferred to the Twenty-seventh Missouri, after which he served upon my picket-officer. He was wounded while leading a cavalry charge, February near Rivers Bridge, in the campaign from Pocataligo to Goldsborough. He ha been absent from his command on sick-leave or furlough. I think that this tion would be but a just acknowledgment of his distinguished service.

Very respectfully, your obedient servant,

FRANK P. BLAIR,
Major-Ge

Major-General JNO. A. RAWLINS,
Chief of Staff, Washington.

[Indorsement on the foregoing.]

Approved and respectfully forwarded to the Secretary of War.

U. S. GRANT,
Lieutenant-Ge

HEADQUARTERS UNITED STATES ARMY, June 23, 1865.

HEADQUARTERS MILITARY DIVISION OF THE MISSISSIPPI,

Saint Louis, April 30, 1866.

e pleasure in recommending to favor Bvt. Brig. Gen. D. T. Kirby, United Volunteers. He served under me in various capacities during the whole war, s universally esteemed, a most active, intelligent and zealous officer. I shall t but an act of justice if he should receive from the Government of the United an acknowledgment of his merits and services.

W. T. SHERMAN,
Major-General.

[Indorsement on the foregoing.]

cur in the statement of General Sherman as to the merits of Bvt. Maj. Gen. Kirby. He proved himself to be a most gallant and meritorious officer.

U. S. GRANT,
Lieutenant-General.

2, 1866.

WASHINGTON, D. C., *June* 29, 1866.

om it may concern:

Brig. Gen. D. T. Kirby served under my command during the time I had command Army of the Tennessee. He was remarkable for his gallantry on the field. I m near Rivers Bridge charge the enemy at the head of a small regiment of ed infantry, when he was wounded. He showed great energy at all times, and lly distinguished himself as chief of staff of the Seventeenth Army Corps. I reat pleasure in bearing testimony to the brilliant military record of General and trust he may be able to reap abundant fruits of his energetic and faithful during the war.

Respectfully,

O. O. HOWARD,
Major-General United States Volunteers.

WASHINGTON, D. C., *July* 11, 1866.

President:

with pleasure that I bear witness to the military character of Bvt. Brig. Gen. Kirby, who is an applicant for a position in the Regular Army. General K. en- he service early in the war, and arose to his position as a general officer by and capacity. He was for a long time on the staff of General Blair, and his y, energy, and military conduct attracted the attention of other officers, and him to sustain a reputation as good as the best.

ve observed his conduct frequently, and hence am led to believe that the service e benefited by his appointment to a grade equal to his merit, and sincerely hat he may succeed in his application.

Very respectfully,

WM. W. BELKNAP,
Late Bvt. Maj. Gen., Fourth Division, Seventeenth Corps.

WASHINGTON, D. C., *July* 14, 1866.

I would respectfully recommend Bvt. Brig. Gen. Kirby to your favorable no- nd urge that he receive an appointment in the permanent military service of nited States. General Kirby commenced at the very outbreak of the late war rved through the whole of that struggle, sustaining himself with great credit. an able officer, and I hope may receive the position that his services, patriotism, bility entitle him to.

Very respectfully, your obedient servant,

JOHN M. OLIVER,
Brevet Major-General Volunteers.

. E. M. STANTON, *Secretary of War.*

SAINT LOUIS, *July* 14, 1866.

President:

sire to recommend Brevet Brig. Gen. D. T. Kirby for an appointment in the ar Army. General Kirby served with his regiment, the Eighth Missouri Volun-

teer Infantry, of which he was major, and the Twenty-seventh Missouri Vol Infantry, of which he was lieutenant-colonel, with great distinction during th war. Both of these regiments were under my command, and I was persona quainted with the great merit of this officer; when anything was to be done req more than usual courage, zeal, and intelligence, Kirby was almost certain to lected to lead the enterprise. Subsequently Colonel Kirby served on my staff chief picket-officer of the Seventeenth Army Corps. In this position he was o assistance to me. I always felt certain that every duty that devolved on him be performed with the greatest zeal and alacrity. He was universally regar his superior officers as one of the most intrepid and skillful officers in our arm was severely wounded in a cavalry charge near Rivers Bridge in South Carolin brevetted as colonel and brevet brigadier-general for his gallantry and go duct. He has earned an appointment in the Regular Army, if any man in the teer service can be said to have earned such an appointment, and he will do h any commission which your excellency may confer upon him.

Yours, truly,

FRANK P. BI

WAR DEPARTMENT,
BUREAU OF REFUGEES, FREEDMEN, AND ABANDONED LAND
Washington July 19,

SIR: I desire to call your attention to the eminent services of Bvt. Brig. Ge Kirby, formerly lieutenant-colonel of the Twenty-seventh Missouri Infantry. I took command of the Army of the Tennessee, General Kirby was the chief officer of the Seventeenth Army Corps, a position requiring more than ordinar ity, intelligence, and bravery. In Colonel Kirby these qualifications were fo remarkable degree. He was prompt and energetic, and when I knew that a been placed or inspected by him, I knew that it was well done. During the t I was in command of the army, he was often selected to conduct hazardous tions. He was wounded in a cavalry charge, which he was leading, near River S. C. I have had frequent occasion to witness his coolness and bravery in d positions.

He desires to enter the Regular Army, and I heartily recommend him for the he seeks.

I am, sir, very respectfully, your obedient servant,

O. O. HOWAR
Major-General United States Vol

Hon. E. M. STANTON, *Secretary of War.*

WASHINGTON, *July* 2

SIR: I wish to call your attention to the services of General Kirby, forme tenant-colonel of the Twenty-seventh Missouri Infantry. I am well acquain his services, having served under and with me in the Army of the Tennessee, organization up to the disbandment of the same. He was at all times a faith getic, and gallant officer, many times performing service deeds, and always duty; he was often selected to do particular service on account of his daring judgment; he was severely wounded during the march of the army throu Carolina. No man is better qualified than he to fill a position in the Regul I would be greatly pleased to see him placed there, where he would certai service to his country and have his good offices appreciated by the governme

Very respectfully,

JOHN A. LOGA
(*Late*) *Major-G*

Hon. E. M. STANTON, *Secretary of War.*

WASHINGTON, *August* 7

Mr. PRESIDENT: I respectfully request that you appoint Brevet Brig. G Kirby to be a major in the reorganized Army of the United States. His milita is clear, his testimonials from superior officers under whom he served during war ample and eulogistic; wounds attest his devotion; his discharge from t teer service is honorable and satisfactory. He seeks to use the skill attained to promote the glory of his country, and would spend his life in a pursuit in he early entered in the hour of peril and doubt. He entered the service from

r district, and I but express its appreciation of him as a gentleman and officer their name, soliciting for him your kind recognition in the office I ask for him.
I am, sir, respectfully, your obedient servant,

JOHN HOGAN.

[Indorsements on the foregoing letter.]

adorse the within recommendation.

JAS. O. BROADHEAD.
CHAS. M. ELLEARD.
JOHN KNAPP.
EDW. McCABE.
E. B. BROWN.
C. G. MAURO.
A. TODD.
J. W. BLACK.
R. J. HOWARD.
J. B. ROGERS.
GEO. H. HALL.
DAVID MURPHY.
WM. I. MARTIN.

HOUSE OF REPRESENTATIVES,
COMMITTEE OF WAYS AND MEANS,
Washington, D. C., August 7, 1866.

'RESIDENT: I respectfully request that you appoint Brevet Brig. Gen. Dennis y to be a major in the reorganized Army of the United States. His military is clear; his testimonials from superior officers under whom he served during e war ample and eulogistic; wounds attest his devotion; his discharge from unteer service is honorable and satifactory. He seeks to use the skill attained ice to promote the glory of his country, and would spend his life in a pursuit hich he early entered in the hour of peril and doubt. He entered the service y State and my district, and I but express its appreciation of him as a gentle- d an officer by, in their name, soliciting for him your kind recognition in the ask for him.
I am, sir, respectfully, your obedient servant,

JOHN HOGAN.

[Indorsement on the foregoing.]

ral Kirby has applied for a captaincy, but his service entitles him to the ma- which I understand will open from Missouri. I hope the President will give it . As Mr. Hogan states, no man has done better service than General Kirby. superiors attest his capacity, courage, and devotion to the country. He is a avorite also with those who served under him, and with the people of Missouri.

M. BLAIR.

UST 9, 1866.

SILVER SPRING, *August* 25, 1866.

R MR. PRESIDENT: Frank writes desiring his brother and me to promote as far an the appointment of General Kirby in the regular service. I know of no means than stating the facts as to his deserts in as few words as possible. He f-made man, beginning to work for himself at the age of fourteen without means. e up the little business on which he was thriving at the commencement of the n, and, raising a company at his own expense in Saint Louis, began in aiding s efforts there. He rose in his regiment through all the grades to lieutenant- , and was mustered out with it after three years' service. He then re-entered vice as lieutenant-colonel of Twenty-seventh Regiment Missouri Volunteers. immediately detailed as chief picket officer of Seventeenth Army Corps, and cessively brevetted colonel and brigadier-general on active service to the close war. He fought as captain at the battles of Fort Henry, Fort Donelson, at Chickasaw Bayou, Arkansas Post, Champion Hills, Jackson, and siege of Vicks- After Vicksburg, as lieutenant-colonel, he was engaged in the battles of Chat- a, Resaca, Dallas, and Kenesaw Mountain, and then as chief picket officer in battles and skirmishes his position involved on Sherman's advance to Atlanta, march to the seaboard, and the point of Johnston's surrender. General How- his recommendation, says, "He was chief picket officer" in the van of his nd adds, "a position requiring more than ordinary sagacity, intelligence, and . In Colonel Kirby these qualifications were found to a remarkable degree

He was prompt and energetic, and when I knew that a line had been placed or i spected by him, I knew that it was well done. He was often selected to conduct ha ardous expeditions. I have had frequent occasion to witness his coolness and brave in dangerous positions." *He heartily recommends him for the position he seeks.* Gener Sherman recommends and says: "He served under me in various capacities durin the war, and was universally esteemed a most active, intelligent, and zealous office I shall deem it but an act of justice if he should receive from the Government of t United States an acknowledgment of his merit and services." On this General Gra indorses: "I concur in the statement of General Sherman as to merits of Brevet Br adier-General Kirby. He proved himself a most gallant and meritorious officer." Ge erals Logan, Belknap, and Blair, under whom he served, go more into detail. a accord the highest praise. He was thrice severely wounded, and had three hor shot under him.

With great regard, yours, affectionately,

F. P. BLAIR.

WASHINGTON CITY, *August* 27, 1866.

To His Excellency the PRESIDENT:

Your attention is respectfully called to the recommendations which the State Missouri (through her representatives) has made concerning the appointment of B Brig. Gen. D. T. Kirby (late chief picket officer Seventeenth Army Corps) to t position of major, United States Army.

Since the interview between your excellency and the delegates of Missouri to t Philadelphia convention headed by Hon. John Hogan, at which time the above-m tioned recommendations were handed you, we have learned that the name of George Schofield has been placed upon the list for appointment to be accredited to Missou General Schofield *is not and never was* a resident of the State of Missouri. He is, a has been, a resident of the State of Illinois. It is true that in the latter part of he received a commission in a Missouri regiment, of which his brother (Maj. G John M. Schofield) was major.

We have recommended General Kirby as a *Missourian*, who resided there before war, and who in 1861 was one of the first to rush to the defense of the governm His course through the war is a matter of history; no officer, regular or volunteer, show a better record. He is a *self-made man*, relying not upon the influence of tions for promotion, but, as the testimonials of Generals Grant, Sherman, How Blair, Logan, Smith, and other officers with whom he has served will show, has by his zeal, devotion, fearless bravery, and good judgment advanced hi from a captaincy in the Eighth Missouri to the position of brevet brigadier-gen and chief picket officer of the Seventeenth Army Corps. We have been led to bel that Missouri should receive one of the majorities in the Army. If so, we pre again the name of D. T. Kirby as the choice of Missouri; and in this connection al us to say that General Schofield neither claims to be nor is he recognized by us resident of Missouri. Therefore we ask that our petitions and recommendation not ignored without *just* and *reasonable* cause, but simply ask you to do justice, render unto Missouri that which is due to Missouri.

On behalf of the Missouri delegation to the Philadelphia convention and the U conservative people of Missouri.

THOS. L. PRICE.
MORGAN L. SMITH.
DAVID MURPHY.
CHAS. G. MAURO.
JAS. S. ROLLINS.
WM. I. MARTIN.

ADJUTANT GENERAL'S OFFICE,
January 14, 18

I certify the foregoing are true copies of the original letters of recommendation file in this office.

SAMUEL BRECK,
Assistant Adjutant-Gener

ONGRESS, } SENATE. { REPORT
Session. } { No. 194.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1880.—Ordered to be printed.

OGAN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 592.]

mmittee on Military Affairs, to whom was referred the bill (S. 592) he relief of Redmond Tully, have had the same under consideration submit the following report:

t they have duly considered the evidence presented in this case, y the petitioner and the War Department, and the papers, and ients, and proofs accompanying the same, and find the following the substantial facts of the case:

t Redmond Tully, late first lieutenant of the Twelfth Infantry, l States Army, served as an enlisted man, First United States ery, from June 12, 1855, to December 11, 1861, when he was ap- d second lieutenant, same regiment. He was promoted first lieu- t June 1, 1863, and breveted captain October 7, 1864, for gallant eritorious services in action, and transferred to the Twelfth In- March 5, 1869. He continued in the service until January 1, when he was mustered out, under the provisions of an act of ess passed on the 15th of July, 1870, for reducing the numerical of the Army, including a corresponding number of officers.

find that this officer had no opportunity offered him to appear the board organized for the purpose of examining into the causes ted for mustering him out of the service. That he was mustered ithout any notice, and without any fault of his own.

do not think, however, that the hardship that fell upon him being so summarily mustered out of the service should entitle pay during the time he has been out of the said service; nor do ink he should be appointed to the Army in any higher grade or than that held by him at the time of his muster out of the service, reduction in the number of officers of the Army had to fall upon of the officers, whether good or bad. We therefore recommend assage of the accompanying bill (No. 592), with amendments, rizing the President to appoint Redmond Tully first lieutenant in fantry arm of the service, to be assigned to the first vacancy in grade.

O

ıNGRESS, } SENATE. { REPORT
ssion. } { No. 195.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1880.—Ordered to be printed.

NSIDE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 175.]

mittee on Military Affairs, to whom was referred the bill (S. 175) relief of Maj. P. P. G. Hall, have had the same under considera- nd submit the following report:

s a bill directing the refundment to Maj. P. P. G. Hall, a pay- n the Army, the sum of $3,141.39, being the amount paid by the Treasury, January 15, 1872, in liquidation of a deficiency counts as paymaster, caused by the criminal acts of a clerk ames Thomas, occurring in 1869, and of which said Thomas was ıvicted.

ill referred to has twice been acted upon favorably by the Com- n Military Affairs, and the last report made in the case is again by the committee. It was as follows:

ıtter was thoroughly investigated by the committee of the second session of -fourth Congress, and a favorable report, accompanied by a bill for relief, he Senate. (See Report No. 604, second session, Forty-fourth Congress, Jan- 877.) The bill was not reached before final adjournment of the Forty-fourth and now comes up by identical bill. Inasmuch as the facts and record are as those submitted to the consideration of the committee heretofore, your e adopt the report of the previous committee, as hereinafter set forth, and ıd the passage of the bill.

"[Forty-fourth Congress, second session, Senate Report No. 604.]

r. SPENCER submitted the following report, to accompany bill S. 1175:

ımittee on Military Affairs, to whom was referred the petition of Maj. Peter P. G . raying to have refunded certain money he was obliged to pay in consequence of the ment of a clerk, have had the same under consideration, and submit the following

cord shows that the petitioner, a paymaster in the Army of the United States, ɔned in the years 1868 and 1869 at Vicksburg and Jackson, in the State of ɔi, where, in addition to his duties of payments to the officers and soldiers of stationed in the various parts of the military district, and which required ıvel over parts of the States of Mississippi, Louisiana, Tennessee, and Ala- ɔerform the same, he was also charged with the arduous and responsible pay- vhat is known as "reconstruction vouchers," the funds of which were sepa- those furnished for the payment of the Army.

dditional duty imposed upon the petitioner a vast amount of labor, in the per- of which, in addition to his regular clerk, he was allowed by the proper au- ɔther clerks, and also enlisted men, from time to time, as occasion required, mber of fifteen or twenty, for the purpose of assisting in the work of prepar-

ing for payment the said reconstruction accounts. Among the number of clerks so employed to meet the exigencies of this extra service was one James Thomas.

"The said James Thomas, while thus employed as a clerk, and engaged in the preparation of the vouchers on which said reconstruction accounts were paid, at various times between March 1, 1868, and February 1, 1869, without petitioner's knowledge, fraudulently and feloniously altered a large number of reconstruction vouchers which had been approved and ordered paid by the proper military authorities, so as to largely increase the amount of money due on the same, and raised and altered checks signed by the petitioner for their payment, by means of which felonious practices he obtained the money on said vouchers and checks, and embezzled of the money of the United States the sum of $3,409.62 before he was detected thereof.

"During this period the petitioner was engaged in the discharge of his regular duties of paymaster, which necessarily called him frequently away from his headquarters into various parts of the military district where troops were stationed, and he therefore had no knowledge of the frauds committed by said Thomas until they were discovered by the accounting officers of the Treasury. Upon the discovery of these facts, the said Thomas was, at the request of the petitioner, immediately arrested, by order of Gen. A. C. Gillem, commanding the military district, and on the 19th of October, 1869, he was arraigned before a general court-martial convened at Jackson, Miss., by order of General Ames, the department commander, charged with the following crimes:

"1st. Making claims against the Government of the United States, knowing the same to be fictitious and fraudulent, in violation of the act of Congress of March 2, 1863.

"2d. Making and using false vouchers, knowing the same to contain false and fraudulent statements and entries, for the purpose of obtaining the approval of false claims, in violation of the same act.

"3d. Knowingly and willfully appropriating to his own use money belonging to the United States, in violation of the same act.

"4th. Conduct to the prejudice of good order and discipline.

"On the 28th of January, 1870, after a full investigation by the court-martial convened for that purpose, the said Thomas was declared guilty upon all the charges, and sentenced to forfeit to the United States all pay then due or that may become due, to pay a fine of $3,299.01, and to be confined at hard labor for the period of five years; which proceedings were approved by General Ames, and the said Thomas was incarcerated in the penitentiary at Jackson, Miss.

"In consequence of this embezzlement, there was found to be due, upon settlement of petitioner's accounts by the proper officers of the government, a deficiency of $3,141.39, which amount was made a charge against him. Thereupon the petitioner was suspended from duty and pay until he should pay over and reimburse to the government the amount of said deficit, a refusal to comply with the same rendering liable to be court-martialed and dismissed the service as a defaulter. Accordingly, the petitioner did pay over to the United States the said sum of $3,141.39, the amount of the moneys so embezzled by the said Thomas.

"After the said payment and liquidation by said petitioner of the amount so charged against him, he filed, on the 29th of October, 1873, his petition for relief in the Court of Claims, under the act of May 9, 1866, by which said court is invested with jurisdiction to grant relief in cases of this character; and whenever said court shall have ascertained the facts of any such loss to have been without fault or neglect on the part of the officer suffering a loss of the public funds, it is provided by said act that a decree shall be made, setting forth the amount thereof, upon which the proper accounting officers of the Treasury shall allow to such officer the amount so decreed as a credit in the settlement of his accounts.

"On demurrer to the said petition, the Court of Claims held 'that petitioner could not recover, for the reason that his liability for the defalcation had been discharged by the payment of the money. The court held that an officer entitled to the relief contemplated by the act must not only *have been*, but must *still be*, held responsible to the government for that which is lost. If the responsibility has been discharged, he is no longer entitled to relief. His account has by his own act been settled and closed, and there is, therefore, no unsettled account upon which a credit decreed by this court could be allowed.'

"Therefore, the petitioner was denied the relief he sought because he had, under the orders of his superiors, previously paid over the deficit charged against him. The record shows that the petitioner had no time to present his case to the Court of Claims previously to the payment of the deficit. Although petitioner made application for delay for the purpose of endeavoring to obtain relief, the record shows such delay was peremptorily refused, and by Special Order No. 189 of the War Department, dated August 4, 1870, which was issued immediately upon settlement of his account by the Second Auditor of the Treasury, the petitioner was ordered to repair without delay for duty in the Department of Texas. It also appears in the record that, by letter of the Adjutant-General of date August 16, 1870, petitioner's request for delay was denied, and the order to proceed at once to Texas was reiterated.

ter from the then Paymaster-General is in the record, from which it appears that ı suspending petitioner, and threatening him with court-martial unless he paid deficit, disclaims all intention of barring petitioner from his legal remedy in t of Claims. But, it is proper to remark, the effect of the Paymaster-General's so to debar petitioner, and therefore to force him to seek Congressional relief. exigencies of the public service and the consideration of his superior officers tted, there can be no reasonable doubt he would have been relieved by the Claims under the broad and equitable provisions of the act of May 9, 1866, ot, in obedience to orders, previously paid the amount of the deficit so charged ıim.

Hon. E. B. French, Second Auditor of the Treasury, and the officer charged settlement of paymasters' accounts, certifies 'that, with the exception of the ıction accounts, wherein fraud was alleged to have been committed by a clerk, ioner's accounts have been rendered in an acceptable and satisfactory manner, ›ayments appear to have been made with care and ability.'

ı far the case presents unquestionable merit, and the remaining point for con- ›n is whether the petitioner had exercised proper care and caution and such ›le prudence as is required of a disbursing officer. The Secretary of War, dressed on this subject, submits the following report:

"'WAR DEPARTMENT,
"'*Washington City, January* 22, 1877.

: Returning your letter of the 19th instant, requesting information in the f defalcation of Maj. P. P. G. Hall, paymaster United States Army, through :, James Thomas, I have the honor to invite your attention to the report of master-General, dated the 20th instant (indorsed on your letter), and accom- papers.

'Very respectfully, your obedient servant,

"'J. D. CAMERON,
"'*Secretary of War.*

ı. GEORGE E. SPENCER,
'*Of Committee on Military Affairs, United States Senate.*

"'UNITED STATES SENATE CHAMBER,
"'*Washington, January* 19, 1877.

: Referring to the petition of Maj. P. P. G. Hall, paymaster, United States Army, to be reimbursed on account of certain defalcations occurring through the ity of a clerk named James Thomas, while said petitioner was charged with 's of paying vouchers under the reconstruction act, which petition is now pend- re the Senate Committee on Military Affairs, I have the honor to request such ion as may be within the province of the War Department to afford, touching tion whether Major Hall exercised, under the attendant circumstances, such due diligence as a disbursing officer as would be reasonably and justly required recedents and practice of the department. As the committee desire to de- this case on Tuesday next, please direct an early reply.

Very respectfully,

"'GEO. E. SPENCER,
"'*Of Senate Committee on Military Affairs, Acting Chairman.*

ı J. D. CAMERON,
"'*Secretary of War.*

"'[Indorsement.]

pectfully referred to the Paymaster-General for report.
›rder of the Secretary of War.

"'H. T. CROSBY,
"'*Chief Clerk.*

UARY 19, 1877.

"'[Second indorsement.]

pectfully returned to the Hon. Secretary of War.

hese transactions occurred several years before I arrived here, I have to make ent derived from a variety of sources, mostly from the records of this office. ıbezzlements by James Thomas, clerk to Maj. P. P. G. Hall, occurred when he ioned at Vicksburg, Miss., from September, 1868, to February 1, 1869, from ı "reconstruction account," deposited with the assistant treasurer at New The vouchers were paid by check on that depository, printed as payable to " It was customary to pay them (after the approval of each voucher by

Brigadier-General Ord, commanding the Fourth Military District) by checks to the order of the claimant. Thus the word *bearer* on the check was erased, and the word *order* substituted. It appears that Thomas would write the word *order* on the check by a black-lead pencil when presented to Major Hall, who has the misfortune to be near-sighted, which facilitated the crime of the offender. With a rubber he would erase the pencil-marks, and thus, as the check would become payable to bearer, he was able to appropriate the money to his own use. As no complaint of non-payment ever reached this office, Thomas must have first passed to Major Hall a correct voucher, duly countersigned by General Ord, and obtained a correct check to the order of the claimant, which was sent to him. Afterwards he would alter and raise the amount of the voucher, and present a new check for the increased amount; as he performed the duty of preparing the voucher and the check necessary to pay it.

"'When these vouchers were critically examined in this office, these alterations became apparent and were disallowed.

"'A careful overhauling in this office, and afterward in the office of the Second Auditor, led to a disallowance in this manner amounting to $3,141.39. This amount was made good by Major Hall, being deposited with the United States depository at San Antonio, Tex.

"'I do not doubt that Major Hall, as stated in his report on the subject, of the 19th instant, addressed to this office, was in the habit of comparing carefully the total amount of the voucher with the amount of the check before signing the latter—his near-sightedness, as in case of the check, rendering less obvious to him than to most disbursing officers the changes and alterations of the vouchers. He had severe work imposed upon him at Vicksburg, being required to make these reconstruction disbursements in addition to his ordinary duty of paying the troops. His disbursements on the latter account, during the five months from September, 1868, to January, 1869, were $185,623.97; on account of reconstruction, $79,445.60.

"'The vouchers (true amount) were often small, varying from $10 up to $60, and a few over $100.

"'The general reputation of Major Hall for industry, fidelity, and accuracy of his accounts has been very good; and he appears to have made these disbursements at a time when extraordinary labor was imposed upon him.

"'I inclose herewith Major Hall's letter of 19th instant, and copy of General Order No. 4, of February 5, 1870, from headquarters, military district, by which it will be seen that James Thomas was tried by a general court-martial, found guilty, and sentenced to five years' imprisonment for the offense, and to pay a fine of $3,299.01.

"'I also inclose a statement of Maj. T. F. Barr, judge-advocate of said court-martial, whose duty it was to thoroughly investigate the case, and who expresses an opinion favorable to the present claim of Major Hall.

"'BENJ. ALVORD,
"'*Paymaster-General, U. S. Army.*

"'PAYMASTER-GENERAL'S OFFICE,
"'*January* 20, 1877.

"'WASHINGTON, D. C., *January* 17, 1877.

"'SIR: I am a petitioner to Congress for reimbursement in the matter of the embezzlement of Thomas, my clerk. As you prosecuted this case on behalf of the United States Government, and are conversant with it, will you be so kind as to favor me with your views, based on your knowledge of the case, regarding the manner in which my business was transacted, and if there was the necessary care and diligence exercised on my part.

"'Very respectfully, your obedient servant,

"'P. P. G. HALL,
"'*Paymaster, United States Army.*

"'Col. THOMAS F. BARR,
"'*Judge-Advocate, U. S. A.*

"'[Indorsement.]

"'WASHINGTON, *January* 17, 1877.

"'Respectfully returned, through the Secretary of War.

"'In the spring of 1869 I was ordered by the Secretary of War to proceed to Jackson, Miss., in response to a telegram received from General Ames, asking for a judge-advocate to prosecute a case of embezzlement.

"'Upon arriving at Jackson, I found that a Mr. Thomas, clerk to Maj. P. P. G. Hall, paymaster, was in the guard-house in Vicksburg, charged with embezzlement of public funds, and that a writ of *habeas corpus* had issued from the United States district court (Judge Hill) for his release.

"'I made an investigation of the case, and satisfied myself of the man's guilt, and

a return to the writ, and argued the case successfully, the petitioner being o military custody. He was subsequently tried by military court for em- of public funds, and sent to the penitentiary for a term of years.

l not at the time conceive that Major Hall would be held responsible for embezzled by Thomas. With the arduous duties imposed on him in the tion of the reconstruction laws, in addition to his regular official labors, stration of his office appeared to me commendable in every way.

e should have been held pecuniarily responsible for the criminal act of a sub- s ever appeared to me a great injustice.

"'THOMAS F. BARR,

"'*Judge-Advocate, United States Army.*'"

se reports it appears that petitioner exercised such reasonable prudence and could be fairly required under the circumstances, and that the defalcation vas not owing to any want of care or diligence on the part of the petitioner. mittee also believe that where public funds have been lost by disbursing obbery, accident, or the default of subordinates, without any fault or want heir part, it has been customary not to hold such officers liable for the sums , in cases where the money has been paid into the Treasury, as in the case norialist, authorizing the Secretary of the Treasury to refund the same. at this case comes within the principle established by the precedents re- ur committee report herewith an act for the relief of the memorialist.

O

ONGRESS, } SENATE. { REPORT
Session. } { No. 196.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1880.—Ordered to be printed.

CKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 1153.]

mmittee on Military Affairs, to whom was referred the bill (H. R.) entitled "An act to restore to the public domain a part of the mili- reservation known as Fort Ripley Reservation, in the State of Min- a, and for other purposes," have carefully considered the same, and it the following report:

bill passed the House of Representatives December 16, 1879, as sent to the Senate and referred to your committee. Your tee addressed a letter to the Secretary of War, inclosing a copy bill, and asking for full information touching said military reser- the necessity of retaining any portion of it for military purposes, e views of the Department upon the propriety of passing the said d received from the Secretary of War the following letter and res, marked, respectively, Nos. 1, 2, 3, 4, 5, and 6, to wit:

No. 1.

WAR DEPARTMENT,
Washington City, January 6, 1880.

Referring to your letter of the 22d ultimo, inclosing House bill 1153, "to re- the public domain a part of the military reservation known as the Fort Ripley tion, in the State of Minnesota, and for other purposes"; and requesting full ion in regard to said reservation, and my views as to the propriety of the of the bill, I have the honor to inclose a report of the Adjutant-General, e 3d instant, and accompanying papers, which, it is believed, will furnish the tion desired by you.

ur with my predecessor in the opinion that the bill should become a law with dment, striking out the words underscored from line six to fourteen of the tion of said bill, commencing with the words "the following-described tracts" ing with the words "of range twenty-nine and." If this amendment is e bill will then authorize the transfer of the entire reservation, which is now r needed for military purposes, to the Department of the Interior, except the land heretofore granted by Congress for right of way to a railroad company.

ery respectfully, your obedient servant,

ALEX. RAMSEY,
Secretary of War.

F. M. COCKRELL,
Committee on Military Affairs, United States Senate.

No. 2.

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
Washington, January 3, 188

SIR: I have the honor to return herewith communication dated December 22, 18 from Hon. F. M. Cockrell, of the Senate Military Committee, covering H. R. 11 "An act to restore to the public domain a part of the military reservation known the Fort Ripley Reservation, in the State of Minnesota, and for other purposes," requesting full history and information concerning the same, &c., referred to this of for report, and to state as follows:

On the 13th of April, 1849, a military post was established on the west bank of the sissippi River, in Minnesota, and designated as "Fort Gaines." The name was chan to Fort Ripley November 4, 1850.

Under date of September 15, 1849, *two* reservations were declared by the Presid (General Taylor), one on the east and the other on west shore of the Mississippi. latter, which included the site of the post, contained about one square mile, the m body of the reservation lying east of the river, and containing nearly ninety squ miles.

No plat of the original reservation is on file in this office, but one may be file the office of the Quartermaster-General.

An act of Congress (copy inclosed), approved February 28, 1873, authorized and rected the Secretary of War to sell at public auction the whole or so much of the ervation at Fort Ripley as might no longer be required for military purposes.

It was first designed to retain the reservation on the *west* bank of the river, on wh the post was built, and, in view of certain discrepancies in the boundaries thereo was *relocated* by the President's order of August 2, 1875, with boundaries as announ in General Orders No. 55, of 1875, from Headquarters Department of Dakota, c herewith. The Secretary of War decided that the land included in the old rest and excluded from the new, as well as the entire reserve on the east bank of the sissippi, would be held by the War Department until disposed of in accordance w the act of February 28, 1873.

Pursuant to the provisions of said act (section 2), a board of officers was directe convene by orders of December 19, 1876, from this office, on the 4th of January, 18 or as soon thereafter as practicable, and by orders of January 5, 1877, the meetin the board was postponed to April 1, 1877, or at such time as the president of board might find it practicable.

In 1857 the Secretary of War (John B. Floyd) appointed two agents to dispos the lands embraced within the reservation, viz: Maj. Seth Eastman, U. S. A., and A. C. Jones.

Part of the land was parceled out and sold to settlers, who paid for the same were given certificates to that effect by these agents.

Secretary Floyd annulled the sale and declined to receive the money from Jo who retained it subject to his order. Suit was brought against Jones in 1874 for recovery of $1,799.22, the amount received by him for the sale of the reserve, judgment obtained October 18, 1876, in favor of the government for the amount for, with interest from December 19, 1873 (vide copy of letter October 21, 1876, f the Solicitor of the Treasury, herewith).

All papers on file in this office relating to the reservation and the sale in 1857 transmitted to Lieutenant J. A. Manley, 20th Infantry, recorder of the board, in k of December 20, 1876.

A fire occurred at the post January 14, 1877, by which officers' quarters, laundre quarters, and storehouse, with stores and property, were destroyed, and the War partment then decided to have the post discontinued, the garrison withdrawn, and *entire* reservation, including the site of the post, appraised for sale by the board of cers appointed under the act of February 28, 1873, and instructions were issued f this office accordingly February 8, 1877, by letter of that date to General Terry, p dent of the board and department commander.

The garrison was withdrawn in July, 1877, and the post has not since been occu by troops—the remaining buildings being in charge of a watchman employed by Quartermaster's Department.

The action of the department relating to right of way, &c., to the Western Rail Company of Minnesota is embraced in War Department letter of October 18, 187 George L. Becker, esq., president of the company, which cites the opinion of the J Advocate-General and various acts of Congress upon the subject (copy of l inclosed).

October 22, 1879 General Terry called attention to the present condition of a at Fort Ripley Reservation, and reported the reasons why no definite action had taken by the board—the members being scattered and on other duty, &c. H

ed that a large number of families had squatted on the eastern portion of the in defiance of law, and he, therefore, requested instructions in the premises, tter having become one of great magnitude.

Secretary of War decided, as Congress would meet in so short a time, to defer estion of removal of the squatters and further action under act of February 28, ntil action could be had by that body in regard to restoring the reservation to blic domain, as contemplated in the act now under consideration, and the com- ng-general Military Division of the Missouri has been advised accordingly.

he 18th ultimo, the General of the Army called the Secretary's attention to the at the act (H. R. 1153), as it passed the House, did not include the portion of ervation on the west side of the river on which the fort was located, while the *eservation* is useless for military pupposes and is no longer required.

detailed information requested by Hon. Mr. Cockrell, if deemed essential, in f the foregoing, could only be obtained by reference to the department com- r, and it is presumed that it would, at this season of the year, take considerable collect the same.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

he Hon. SECRETARY OF WAR.

No. 3.

T to provide for the disposition of that portion of the military reservation at Fort Ripley, Minnesota, which lies east of the Mississippi river.

enacted by the Senate and House of Representatives of the United States of America ress assembled, That the Secretary of War be, and he is hereby, authorized to public auction *the whole or so much of the military reservation at Fort Ripley, in the Minnesota, as may no longer be required for military purposes.*

2. It shall be the duty of the Secretary of War to appoint a board of three fficers, which board shall appraise each piece or parcel of land, with the build- ereon, before the same is offered for sale, and no sale shall be made at a price n two-thirds of the appraised value.

3. And it shall be the duty of the Secretary of War to cause notice of said sale ublished in one of the principal newspapers in the city of Washington, in two principal newspapers in the State of Minnesota, and in one paper, if any there he county where said lands to be sold are situated, or any county adjoining , for the space of sixty days prior to sale.

oved February 28, 1873.

No. 4.

HEADQUARTERS DEPARTMENT OF DAKOTA,
Saint Paul, Minn., September 6, 1875.

[General Orders No. 55.]

is announced for the information of all concerned that the United States mili- ervation of Fort Ripley, Minnesota, has been relocated by Executive order, ugust 2, 1875, to embrace the following tract of land on the west bank of the ppi River, viz:

outh half of the southwest quarter and the south half of the southeast quarter n six, township one hundred and thirty-one north, range twenty-nine west; and seven of the same township and range, excepting the south half of the south- arter and the south half of the southeast quarter thereof. The lines to ex- and follow the middle of the river.

he land included in the old reservation and excluded in the new, and the entire on the east bank of the Mississippi River, will be held by the War Department sposed of in accordance with the act of Congress approved February 28, 1873. mmand of Brigadier-General Terry.

O. D. GREENE,
Assistant Adjutant-General.

No. 5.

DEPARTMENT OF JUSTICE,
OFFICE OF THE SOLICITOR OF THE TREASURY,
Washington, D. C., October 21,

SIR: I have the honor to inform you that in the case of the United States re ander C. Jones, brought September 11, 1874, for the recovery of $1,799.22, recei him as agent of the War Department, for the sale of the Fort Ripley Military vation, judgment has been obtained on the 18th instant, in favor of the gover for the amount sued for, with interest from December 19, 1873.

All the papers in the case are herewith returned, with the exception of the affidavit of Jones and his original letter to the War Department acknowled indebtedness, which papers are filed in said cause in the office of the cler court.

I am, sir, very respectfully,

GEO. F. TALBOT,
Solicitor of the Tre

Hon. J. D. CAMERON,
Secretary of War.

No. 6.

WAR DEPARTMENT
Washington City, October 18,

SIR: I have respectfully to acknowledge the receipt of your letter dated 22d last, inclosing the certificate of the governor of Minnesota, that the Wester road Company of Minnesota has become the lawful successor to the rights, fra and privileges of the Saint Paul and Pacific Railroad Company, and asking, on of the Western Railroad Company, that the right of way over the Fort Riple tary Reservation may be granted, and beg to inform you that the matter havin referred to the Judge-Advocate-General for report as to whether the Secretary is empowered to grant the right of way through this reservation, that officer upon the subject as follows:

"The legislation to aid in the construction of certain railroads in Minnesota is in the acts of March 3, 1857, chap. 99; joint resolution of July 25, 1862, No. 5 of May 5, 1864, chap. 79; March 3, 1865, chap. 105; March 3, 1871, chap. 144; 3, 1873, chap. 331; and June 22, 1874, chap. 424. The first act contained a g land, from which was reserved land that had previously been set aside by law c petent authority for public purposes, and it was provided that the grant sho operate upon such land, except to authorize the President to grant right of wa the same. The unsold land granted was to revert to the United States unless th was completed in ten years. This time was enlarged in several of the subs acts, and certain lands were given in lieu of others withdrawn, in view of a of roule authorized.

"The time for a completion of the road within designated, as finally extende however, now expired, and the grant of land apparently ceased to have effect.

"The incidental authority of the President to grant a right of way would, fore, seem to have also ceased to be operative.

"Moreover, on February 28, 1873, was passed an act authorizing and directi Secretary of War to sell at public auction so much of the military reservation c Ripley, within the State of Minnesota, as might be required for public purpose

"The time for the completion of the within-named railroad having expired, it seem that this act, which, perhaps, may be deemed to have been suspended above-mentioned act of March, 1873, and June, 1874, was now fully operativ that its execution was called for.

"Further, the within papers do not indicate the portion of the reservatio which a right of way is sought, so there is presented no material for an opinio whether it would be for the public interests to authorize the same.

"Upon the whole, I should be of opinion in the present aspect of the case th Executive could not safely proceed to grant the right of way asked for, withc authority of additional legislation."

The views of the Judge-Advocate-General are concurred in.

Very respectfully, your obedient servant,

GEO. W. McCRARY
Secretary of

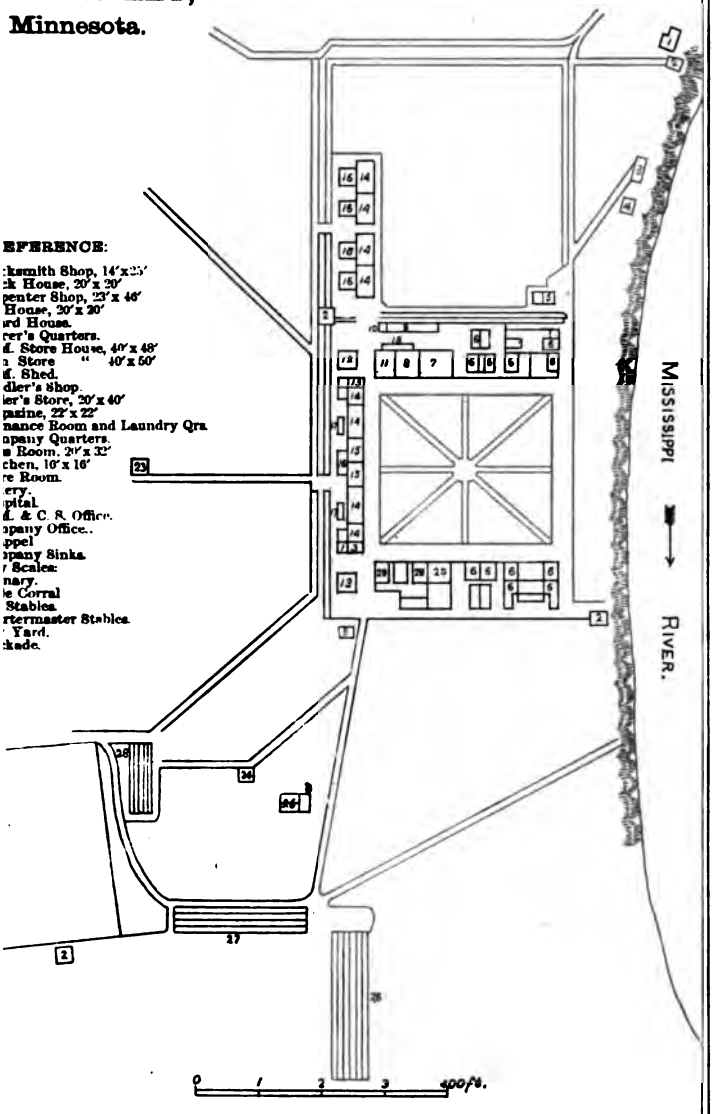
GEORGE L. BECKER, Esq.,
President of the Western Railroad Company of Minnesota, Saint Paul, Minn

PLAN

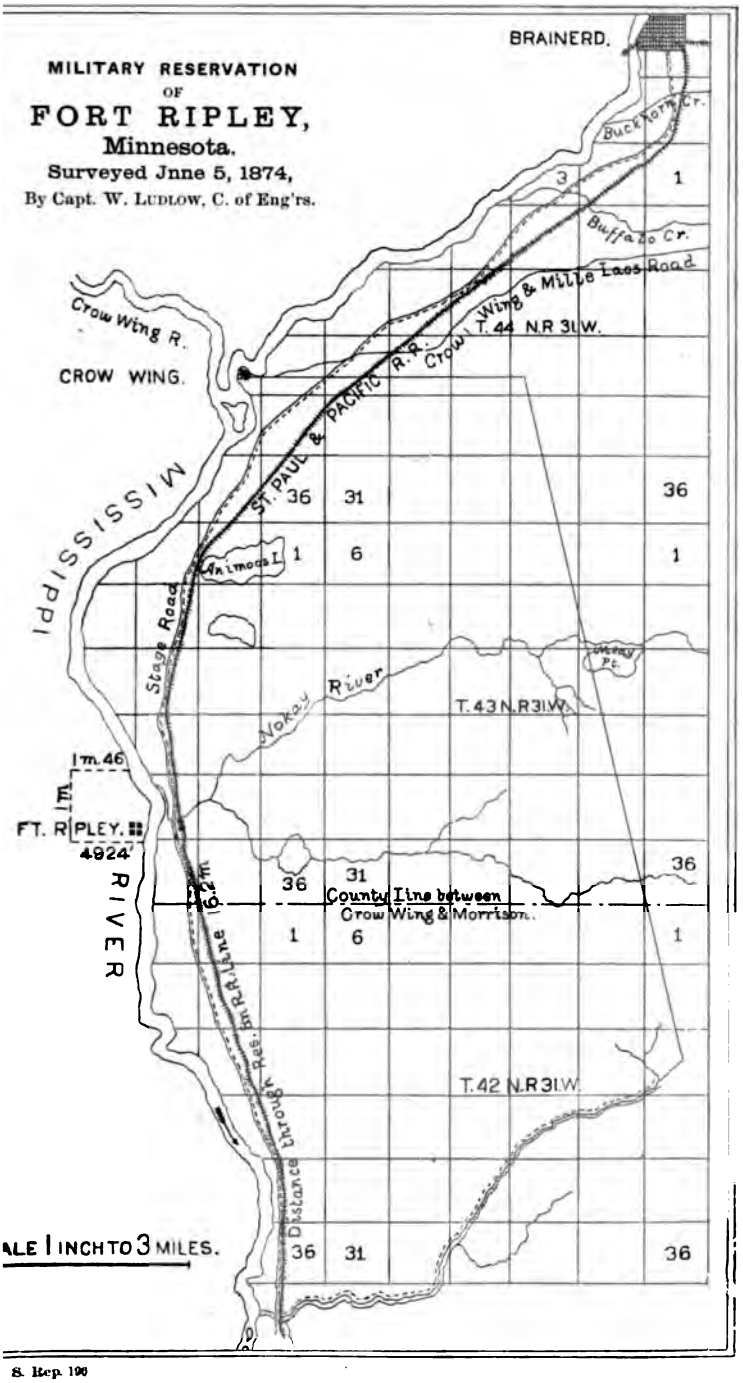
OF

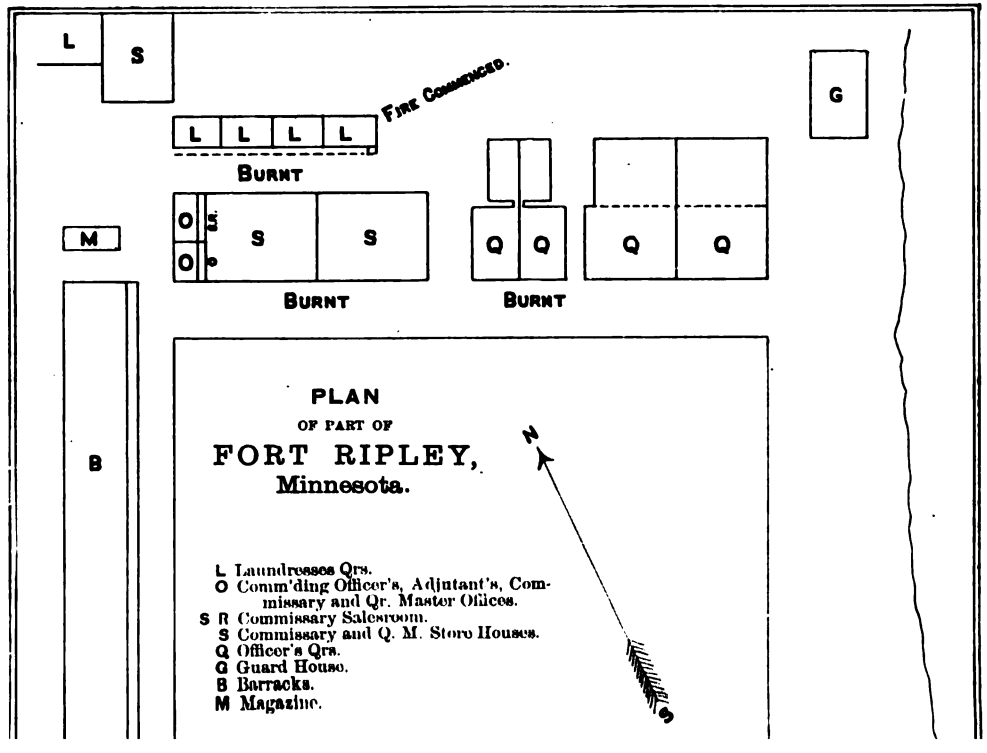
RT RIPLEY,

Minnesota.



cp. 190


MILITARY RESERVATION
OF
FORT RIPLEY,
Minnesota.
Surveyed Jnne 5, 1874,
By Capt. W. LUDLOW, C. of Eng'rs.
BRAINERD.
Buck horn Cr.
Buffalo Cr.
Crow Wing & Mille Lacs Road
Crow Wing R.
CROW WING.
T. 44 N.R 31W.
ST. PAUL & PACIFIC R.R.
MISSISSIPPI
Animoos I.
Stage Road
Nokay River
T. 43 N.R31W.
1m.46
FT. RIPLEY.
4924'
RIVER
County line between
Crow Wing & Morrison.
Distance through Res. in R.R. line
T. 42 N.R31W.
ALE 1 INCH TO 3 MILES.


L
S
FIRE COMMENCED.
L L L L
BURNT
G
M
O
O
S
S
S
Q Q
Q Q
BURNT
BURNT
B
PLAN
OF PART OF
FORT RIPLEY,
Minnesota.
N
S
L Laundresses Qrs.
O Comm'ding Officer's, Adjutant's, Commissary and Qr. Master Offices.
S R Commissary Salesroom.
S Commissary and Q. M. Store Houses.
Q Officer's Qrs.
G Guard House.
B Barracks.
M Magazine.

Your committee having given due consideration to the foregoing doc-
ıents and recommendations of the Secretary of War, and desiring still
rther information, addressed another letter to the Secretary of War,
d received from him the following letter, exhibits, and plat, to wit:

WAR DEPARTMENT,
Washington City, January 19, 1880.

IR: In reply to your letter of the 10th instant, requesting further information in
ınection with House bill 1153, restoring a portion of the Fort Ripley Military Res-
ation to the public domain, I have the honor to inclose herewith a report from the
jutant-General, to whom the same was referred, which contains so much of the in-
mation desired by you as the department is able to furnish.

Very respectfully, your obedient servant,

ALEX. RAMSEY,
Secretary of War.

Ion. F. M. COCKRELL,
Committee on Military Affairs, United States Senate.

ADJUTANT-GENERAL'S OFFICE,
Washington, January 16, 1880.

n. SECRETARY OF WAR:

IR: I have the honor to return herewith communication of the 10th instant from
n. F. M. Cockrell, of the Senate Military Committee, requesting further information
ative to the Fort Ripley Military Reservation, in Minnesota, in connection with H.
1153, Forty-sixth Congress, second session, referred to this office for report, and to
te as follows:

Relative to the reservation on the west bank of the river, for site of the post, the
ildings thereon, &c., the inclosed sketch shows the boundaries of the tract as re-
ved by the President's order of September 15, 1849, and also as relocated by the
sident's order of August 2, 1875, and announced in General Orders No. 55, head-
arters Department of Dakota, September 6, 1875, copy heretofore furnished the com-
ttee. The accompanying plan of Fort Ripley, from Outline Descriptions of Mili-
y Posts in the Division of the Missouri, published in 1876, shows the number and
ation of the buildings at that time, while the inclosed extract from same work con-
ns information as to their character and condition. To these is added a sketch show-
: the buildings burned in January, 1877, which led to the withdrawal of the gar-
on in July of the same year.

As to the best manner of disposing of this tract and the improvements thereon, it
remarked that it has generally been considered that the interests of the government
best subserved by allowing the buildings to be disposed of with the land, subject
such regulations as Congress may provide for ascertaining the value of the improve-
nts and the subdivisions on which they stand.

With regard to the inquiries of Senator Cockrell, relating to the post and reserva-
n generally, this office has not the data at hand to enable it to report specifically.
A map of the entire reservation copied from the "Outline Descriptions" before re-
red to, and an extract from said work showing the location of Fort Ripley, the
aracter of the surrounding country, &c., are inclosed, as containing some of the
sired information; and in this connection attention is also invited to accompanying
tract from "Statistics of Minnesota for 1878," embodying the statistics of Crow
ing and Morrison Counties, the post of Fort Ripley being located in the latter,
hile the reservation east of the Mississippi River embraces portions of both counties.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

FORT RIPLEY, MINNESOTA.

Established in 1848, as Fort Gaines, name changed to Fort Ripley, November 4,
0. Latitude 46° 9′ 43″; longitude 94° 21′ 39″. On the right bank of the Missis-
pi River, 125 miles above Saint Paul. Post-office and telegraph station at the post.
ak Rapids on the Saint Paul and Pacific Railroad, 46 miles distant. Crow Wing,
nearest town, 7 miles distant. The Mississippi River here is navigable only for
all steamers from Little Falls, 17 miles below, to Pokegama Falls, 175 miles above.
inerd, on the Northern Pacific Railroad and Mississippi River, is 17 miles distant.
completion of Brainerd Branch of Saint Paul and Pacific Railroad, which runs
ough the reservation on opposite side of the river, a station with telegraph office
l be placed within half a mile of the post.

Buildings.—Quarters for two companies; officers' quarters, eight sets; hospi guard-house, store-house, stables, &c. All the buildings are constructed of wl pine, and are in fair condition.

Description of country, &c.—The surrounding country is generally undulating, capable of yielding fine crops of wheat, corn, oats, and most of the staple vegetab the soil is a sandy alluvium. There is a garden at the post in which potatoes raised. The grass is very nutritious, and is harvested for use at the post. Timbe abundance, oak, bass-wood, maple, &c. Streams rise in spring, but not to any d aging extent; they are crossed by good bridges; climate dry and generally very c the winters are severe, and for about five months, commencing with November, ground is constantly covered with snow. Locality healthy.

[Extracts from "Statistics of Minnesota for 1878, being the tenth annual report of commissioner of statistics."]

STATISTICS OF COUNTIES, TOWNS, AND VILLAGES.

Crow Wing County.—Brainerd, county seat.

Organized townships, 1.
Land surface, 325,345.95 acres.
Taxable lands, 19,929 acres.
Cultivated land, 226 acres.
Bushels wheat produced in 1877, 591.
Assessed valuation of real and personal property, $209,325.
Farms in county, 7.
Bonded indebtedness, $15,000.
Railway lines, 2; miles, 50.
Number school-districts, 2; number school-houses, 1; number scholars enrolled
Births during 1877, 33; deaths during 1877, 11.
Villages, &c., 1.
Sawmills, 1.
Newspapers published: Brainerd Tribune; men employed, 3; language, En circulation, 500.
Business and professions, wholesale and retail: Bookseller, stationer, 1; boot shoes, 1; clothing, 1; drugs, 1; dry goods, 1; flour and feed, 1; grain, 1; grocer millinery, 1; not enumerated business, 8; general stores, 2.
Trades and manufactures: Clothing, 1; not enumerated, 1.
Post-offices: Brainerd and Fort Ripley.

---

* * * * * *

Morrison County.—Little Falls, county seat.

Organized townships, 9.
Land surface, 698,577.43 acres.
Taxable land, 217,396 acres.
Cultivated land, 12,355 acres.
Increase of cultivated land during the year, 2,743 acres.
Bushels wheat produced in 1877, 101,838.
Assessed valuation of real and personal property, $845,099.
Farms in county, 489.
Railway lines, 1; miles, 23.
Number school-districts, 23; number school-houses, 17; number scholars enrolle
Births during 1877, 173; deaths during 1877, 27.
Village, 1.
Flour and grist mills, 4; run of stone, 9; men employed, 40.
Sawmills, 5; lumber manufactured, 2,000,000 feet; men employed, 60.
Newspapers published, 2: Little Falls Transcript and Morrison County Banne employed, 4; language, English; circulation, 700.
Trades, wholesale and retail, and professions: Drugs, 1; flour and feed, 1; n merated, 9; general stores, 12; professions, 10.
Trades and manufactures: Boot and shoemakers, 3; carriages and wagons, 1; mills, 5; hat bleachers, 1; newspaper, 1; sawmills, 8; tin and sheet-iron, 1; smiths, 4.
Post-offices: Belle Prairie, Buckman, Culdrum, Elm Dale, Green Prairie, Ledo

ittle Texas, Motley, North Prairie, Pike Rapids, Rich Prairie, Royalton, Swan
o Rivers.
ips reported: Swan River, Belle Prairie, Culdrum, Belleone.
ns denominations: Congregationalists, Catholics, and Union; membership,
e of structures, $6,000.
educational institutions: Catholic school; teachers employed, 2; scholars
, 40; value of structure, $3,000.
s: Belle Prairie and Belleone.
merchandise store, 1; value stock, $1,500; persons employed, 1.

nith shops, 5; men employed, 6.
ion, 1,730, comprising French, Germans, Irish, Poles, English, Canadians, and
s.
s: Mississippi and Platte Rivers.
Beauty.

* * * * * *

140–141 and 160–161.)

a careful consideration, your committee find there is no longer essity of retaining any portion of said reservation for military s, and therefore approve the recommendation of the Secretary for the disposal of the whole of said reservation. Your com- ind that the government buildings and improvements are not of at value, a large portion of them having been burned in 1877, r committee do not believe it would be fair or just to the gov-, or to the particular persons who might be the fortunate ones ing the particular tracts of land whereon are such buildings and ments to sell such lands at the same price of the other lands. mmittee, therefore, recommend the striking out of said bill the of" in line five, and all the words after the word "except" in line inning with the words "the following described tracts," to and g the word "and" at the end of line fourteen, and the words art of" in line one, section two, and inserting in line six, section er the word "act," the words "except as hereinafter provided," erting at the end of line seventeen, section two, the words follow- wit: "*And provided further*, That the Secretary of the Interior rior to offering any quarter section, half quarter section, or quarter section whereon are situate any public buildings or ments, erected or made by the government, cause the said tracts e improvements thereon to be appraised by three disinterested , and upon his approval of such appraisement, shall dispose of cts at not less than the appraised value"; and amend the title act by striking out the words "a part of." By these amend- he whole of said reservation, except the right of way to the rail- ill be transferred to the Department of the Interior for disposi- d those particular tracts whereon are situate any public build- l improvements will be appraised, together with the buildings rovements thereon, and, upon the approval of the Secretary of rior of such appraisement, will be disposed of at not less than raised value.

these amendments, your committee recommend the passage of the

O

ONGRESS, } SENATE. { REPORT
Session. } { No. 197.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1880.—Ordered to be printed.

XEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 952.]

mittee on Military Affairs, to whom was submitted the bill (S. 952) e relief of James Burke, respectfully submit the following report:

case was before this committee (see Senate bill 1771) during the ifth Congress, third session, and report thereon (724) was sub- by Mr. Butler on behalf of the committee, from which the follow- dopted:

se is stated by the letter from the Secretary of War, with accompanying docu- s follows:

A.

WAR DEPARTMENT,
Washington City, December 18, 1878.

ecretary of War has the honor to transmit to the United States Senate a com- ion from the Quartermaster-General, dated December 11, 1878, transmitting a from Superintendent James Burke for reimbursement of costs of suit entered him by W. H. Logan for alleged trespass, together with copies of papers re- o the subject.

tter of the Quartermaster-General states the facts of the case, and concludes ws:

ink that a wrong has been done Burke under the color of law, and that his just; but I know of no appropriation under control of the War Department ould properly be drawn upon to indemnify him. I suggest, therefore, that the n the case be referred to Congress, with a recommendation for favorable con- on."

rring in the views of the Quartermaster-General, the case is respectfully sub- o Congress, with recommendation that an act be passed to reimburse Super- nt Burke for the costs of the suit and attorney's fees, amounting, as appears ompanying sworn statement, to $180.40.

ctfully submitted.

GEO. W. McCRARY,
Secretary of War.

RESIDENT *of the United States Senate.*

B.

LOGAN'S CROSS-ROADS, KY.,
October 12, 1875.

Respectfully referring to letter of September 20 (O. N. C. 2363'75), in regard to nlty between Mr. Logan and Mr. Burke, I have the honor to submit the fol- eport:

olored laborer was sent by Mr. Burke to whitewash the picket fence on the

north side of the cemetery, along by the outside of which was a growth of blackberry and other bushes. In order to do this the laborer cut down alongside of the fence a path about four feet wide, most of which was on Mr. Logan's land. The act was, I believe, done for no other purpose except to make it possible to whitewash the fence on the outside. The value of the blackberry briers is nothing; in fact, it is really an advantage to Mr. Logan's land to have them cleared off, and is so considered by every one in the neighborhood.

The suit was brought on account of a personal enmity of Mr. Logan against the superintendent. In incidental conversation with the former, he the same as admitted to me such to be the fact. The quarrel has been of long standing, and the law has had to settle two cases already, both of which were decided in the favor of the superintendent, showing that the latter was considered to be the injured party in both cases.

In this matter advantage was taken at once of the trespass to bring suit.

Mr. Logan has the general reputation of being continually in litigation and quarrel with neighbors. I have endeavored to find out about the whole trouble before the time, by conversation with both parties concerned, and with others knowing to the facts, and I am satisfied that the fault rests almost entirely on Mr. Logan in the matters and troubles. His effort is to embarrass the superintendent and make his stay in the vicinity unpleasant. The superintendent has a good reputation and good credit both here and at Somerset, and I believe is attentive to his official duties. At his request I made an offer to Mr. Logan to leave the amount of damage done to the arbitration of two disinterested persons, but the offer was refused, the reason being given by Mr. Logan that the question of boundary on the cemetery front is also involved. He claims that he owns a strip of land along the front of the cemetery and between the cemetery boundary and the Columbia and Somerset road, on which there has been continual trespass by the superintendent. The deed to the United States, however, states as explicitly as is possible that each of the front corner-stones and the front boundary-line between them is *on* the line of the road referred to, so that there can be no space between the road and the cemetery property.

The suit was not called up this session, but was set for the next circuit court in April of next year.

Very respectfully, your obedient servant,

C. M. CLARK,
C. E. Q. M. Department.

Capt. A. F. ROCKWELL,
Assistant Quartermaster U. S. A.,
In charge of National Cemeteries, Washington, D. C.

(Through Lieut. George M. Love, acting assistant quartermaster Sixteenth Infantry, U. S. A.)

WAR DEPARTMENT,
Washington City, October 26, 1875.

SIR: I have the honor to transmit certain papers relative to a suit for trespass brought against the superintendent of the national cemetery at Logan's Cross-Roads, Pulaski County, Kentucky, and to request that you will direct suitable counsel to be employed to defend the superintendent in the same, as well as the interests of the United States.

I am, sir, very respectfully, your obedient servant,

WM. W. BELKNAP,
Secretary of War.

To the Hon. the ATTORNEY-GENERAL.

DEPARTMENT OF JUSTICE,
Washington, October 29, 1875.

SIR: I have the honor to acknowledge the receipt of your letter of the 26th instant, together with a copy of a report from Capt. A. F. Rockwell, assistant quartermaster, United States Army, in charge of national cemeteries, and a letter of Maj. Gen. Rufus Ingalls, Acting Quartermaster-General, referring that report to you, and requesting that the subject of the report be submitted to me, and asking that the necessary measures be taken to defend the suit brought against the superintendent of the national cemetery at Logan's Cross-Roads, Pulaski County, Kentucky; which request is referred to me by you. The suit is one of trespass against the defendant for entering upon lands of the plaintiff, and the damages are laid at $60.

From the statement of the case, I do not see how the title of the United States to the cemetery grounds can be brought in question, and the cost to the United States

fending the action would be much greater than the damage claimed. I do not ink, therefore, that it is expedient to instruct the United States attorney to appear r the defense.

The inclosures are herewith returned.

Very respectfully, your obedient servant,

EDWARDS PIERREPONT,
Attorney-General.

Hon. W. W. BELKNAP,
Secretary of War.

WAR DEPARTMENT,
Washington City, D. C., December 2, 1875.

SIR: I have the honor to acknowledge the receipt of your letter of October 29, 1875, ansmitting certain papers relative to a request of this department for counsel to de- nd the superintendent of the national cemetery in the suit for trespass instituted ainst him in the discharge of his official duties.

The amount of damages claimed, it seems to me, is immaterial. This department sumes the action of the superintendent and desires to protect him in the impending it, and I have therefore again to request that you direct suitable counsel to be em- yed to defend him in the case.

The title to the cemetery grounds is not involved in the suit, although it seems from e report of the civil engineer (herewith) that the question of boundary may arise.

I am, sir, very respectfully, your obedient servant,

WM. W. BELKNAP,
Secretary of War.

The Hon. the ATTORNEY-GENERAL.

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., April 26, 1877.

SIR: I have the honor to inclose herewith a communication of Superintendent James arke, of Logan's Cross-Roads National Cemetery, requesting information as to the tion taken in the matter of a certain suit against him for trespass, now pending.

This case was first submitted to the Department of Justice October 26, 1875.

The Attorney-General, in a letter dated October 29, 1875, expressed the opinion that would not be expedient for the United States to defend the suit, as the cost of de- nse would exceed the damages claimed.

The War Department objected to this view of the case, and renewed its request for e Department of Justice to defend the suit. (See letter of Secretary Belknap, of De- mber 2, 1875.) On August 10, 1876, the attention of the Department of Justice was vited to the matter, and information was requested as to what action had been taken the premises.

In reply, the Attorney-General stated that no action had been taken, and requested copy of the plaintiff's declaration.

This was furnished September 22, 1876, and nothing further has been heard from e Department of Justice on the subject.

It would seem to be due to the superintendent, no less than to the War Department, at some action should be taken in the premises, and that forthwith.

I inclose an extract from a report of Col. N. H. Davis, inspector-general, on the gan's Cross-Roads National Cemetery. I concur with Colonel Davis in regard to e propriety of the United States defending the suit.

The alleged trespass occurred while the superintendent was attending to his official ties. The cost of defense may, perhaps, be more than the damages claimed; but e superintendent, out of his small compensation, can afford to pay neither, nor does seem right that he should be compelled to.

Very respectfully, your obedient servant,

M. C. MEIGS,
Quartermaster-General, Brevet Major-General, United States Army.

The Hon. the SECRETARY OF WAR.

NEW YORK CITY, *October* 23, 1876.

IR: I have the honor to submit, herewith, my report of an inspection of the Logan's ss-Roads National Cemetery, Kentucky, second-class, inspected October 7, 1876.

* * * * * * *

n unfriendly feeling exists between Mr. W. H. Logan and Burke, the superintend- The former owns the land adjoining the cemetery, and seems disposed to dictate

and annoy from an overbearing spirit, and in mean and petty ways. Burke seems very independent and ill-disposed to conciliate.

For having the briers and brush cut away so as to allow the government fence to be painted and whitewashed, Logan has sued him for $50 trespass and $50 damages. The act produced no damage but rather a benefit to Logan's land. The trespass is such only in law, or technically, but not really. The case was postponed at the term of the circuit court of Pulaski County last spring, to the fall term, at which term, recently, it was not reached. Burke asks that counsel by the United States to defend him in the suit, and has made application through or to Capt. A. F. Rockwell, assistant quartermaster, at Washington, on duty connected with the national cemeteries, for counsel. No reply received.

I think he justly deserves protection in this matter, and the aid of counsel to be furnished by the United States.

* * * * * * *

Very respectfully,

N. H. DAVIS,
Inspector-General, U. S. A.

The INSPECTOR-GENERAL,
Headquarters Army of the United States, Washington, D. C.
(Through headquarters Division of the Atlantic.)

DEPARTMENT OF JUSTICE,
Washington, May 5, 1877.

SIR: I have received your letter of the 3d instant, referring to former letters from the War Department to the Department of Justice, relative to a suit brought by W. H. Logan against James Burke, superintendent of Logan's Cross-Roads National Cemetery, for trespass and damages, and transmitting a letter of the 26th ultimo, from the Quartermaster-General, with two inclosures, touching the matter. You request that the Department of Justice will take measures for the defense of Superintendent Burke. Upon examining the report of the inspector-general, N. H. Davis, I am of opinion that the United States should not assume the responsibility of the act of Superintendent Burke, and should not defend the case for him. According to that report Burke was on bad terms with Logan, and was "very independent and ill-disposed to conciliate." Under the influence of this feeling, he entered upon Logan's ground and cut the briers and brush away so that the government fence might be painted. For this act he is now sued in trespass by Logan. Whether the act did or did not produce any damage to Logan's land, it was a clear violation of his right of property, for which Logan is entitled to recover at least nominal damages. There was no justification for this trespass on the part of Burke. No question is involved having any reference to the title of the United States to its lands. While it is stated that "the alleged trespass occurred while the superintendent was attending to his official duties," in the letter of the Quartermaster-General, the facts show that he had no official duty which entitled him to enter upon the land of a private citizen and to disturb the shrubbery there growing, whether wild or otherwise. It is not for a person thus intruding to say that he has benefited the land of the owner. The owner is entitled to the possession and enjoyment of his property without such disturbance.

Very respectfully, your obedient servant,

CHAS. DEVENS,
Attorney-General.

Hon. GEORGE W. MCCRARY,
Secretary of War.

The case was tried in the circuit court of Pulaski County, Kentucky, at its September term, 1877, and the transcript shows the following to have been the verdict of the jury: "We of the jury find for the plaintiff one cent in damages," which verdict, it appears, according to the laws of Kentucky, carried the costs.

The transcript shows plaintiff's costs	$114 85
And the defendant's costs	40 55
Total costs	155 40

Much the larger portion of this cost-bill is made up of witness-fees, the witness-fees of plaintiff amounting to $85, and of defendant to $33.

l Burke makes affidavit that he paid $25 as attorney's fees. This
ımittee consider reasonable.
.e case was tried in plaintiff's own county, and as the verdict is
ɜly nominal damages, the committee have no doubt that the tres-
ıs purely technical. The removal of briers, a bush of which
. County has doubtless enough and to spare, is estimated by a
the vicinage acquainted with briers *at one cent*, and the one-cent
e was clearly because, upon proof of trespass, the law demanded
ımages.
ɜuit was manifestly a "spite suit."
ɔfficer was doing his duty faithfully, protecting the home of the
ıd hence should be relieved from the payment of costs for doing
y.
ɜupon the committee report back Senate bill 952 without amend-
ıd recommend its passage. In making this recommendation,
ımittee have considered the character of the business in which
rke was engaged, the necessity for the removal of the briers in
tection of the fence, the absurdity of the claim for damages, the
of the jury, and all the surrounding circumstances, and do not
this as a precedent, unless a special and exceptional case like it
ɜsented.

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 198.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1880.—Ordered to be printed.

:. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 290.]

e Committee on Military Affairs, to whom was submitted the bill (S. 290) authorizing the Secretary of War to issue wall-tents to the superintendent of the Virginia Military Institute, have carefully considered the same, and respectfully submit the following report:

The committee referred the bill to the Adjutant-General for report' id herewith submit his letter as part hereof with the report of the uartermaster-General accompanying the same.

From these communications it appears that the tents cannot be spared, id that an appropriation would be necessary to meet the provisions of e bill. Wherefore the committee report the same adversely and ask be discharged.

WAR DEPARTMENT,
Washington City, January 19, 1880.

SIR: I have the honor to return herewith Senate bill 290 "authorizing the Secretary War to issue wall-tents to the superintendent of the Virginia Military Institute," ich accompanied your letter of the 31st ultimo, requesting such information upon e subject as should properly be laid before the Committee on Military Affairs; and invite attention to the inclosed copy of report of the Quartermaster-General, to om the subject was referred.

From said report it will be seen that the number of wall-tents now on hand does t exceed the wants of the service for the current fiscal year, and that the issue of e hundred, as contemplated by the inclosed bill, would create a deficiency for which ngress should provide by an appropriation.

Very respectfully, your obedient servant,

ALEX. RAMSEY,
Secretary of War.

Hon. S. B. MAXEY,
Committee on Military Affairs, United States Senate.

[Second indorsement.]

Respectfully returned to the honorable the Secretary of War.

The Quartermaster-General in making estimate for supplies has in view only the ants of the service. To divert any of the supplies to other purposes than the want the service would create a deficiency.

There are about 900 wall-tents on hand, just about the number that will be required ring the present fiscal year. Congress can direct, of course, 100 of these tents to turned over to the Virginia Military Institute; but if it does it should at the same e appropriate a sum sufficient to replace them.

STEWART VAN VLIET,
Actiwg Quartermaster-General, Brevet Major-General, U. S. A.

QUARTERMASTER-GENERAL'S OFFICE, *January* 12, 1880.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 199.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1880.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 287.]

The Committee on Military Affairs, to whom was referred the bill (S. 287) for the relief of the heirs of Charles B. Smith, deceased, respectfully submit the following report:

House bill No. 1163, Forty-fifth Congress, second session, having the same object in view, and in all respects similar to the bill now reported, passed the House May 31, 1878, and on reaching the Senate was referred to the Committee on Military Affairs June 3, 1878, and was reported back favorably from that committee, without amendment, with recommendation that the bill pass. Said report was made by Mr. Burnside on behalf of the committee, and the committee adopt said report as applicable to this bill, changing the word "act," first line, into the word "bill," as follows:

This bill authorizes the accounting officers of the Treasury to receive and allow, where the proper vouchers cannot be procured, verified statements or other satisfactory evidence which will serve to account for disbursements made by Charles B. Smith, deceased, late first lieutenant Fifth Iowa Cavalry, while acting as commissary and quartermaster.

The following is the report of the House Committee on Military Affairs:

"[House Report No. 262, Forty-fifth Congress, second session.]

"Mr. STRAIT, from the Committee on Military Affairs, submitted the following report, to accompany bill H. R. 1163:

"The Military Committee, to whom was referred the bill (H. R. 1163) for the relief of the heirs of Charles B. Smith, deceased, have had the same under consideration, and report it back to the House with the recommendation that it do pass.

"It appears from the affidavits and other documents filed in this case that the deceased, Charles B. Smith, was a first lieutenant and regimental quartermaster of the Fifth Regiment Iowa Cavalry Volunteers, and that at the close of the war he was honorably mustered out of the service of the United States; that subsequently, to wit, in 1871, the deceased came to Washington, D. C., from his home in Iowa, for the purpose of making answers to the statement of differences arising on the settlement of his accounts, both in property and money, while acting as regimental and brigade quartermaster in the field. It further appears from evidence on file in this case that shortly after his arrival in this city he was taken ill and died; that upon the arrival in Washington of his widow, she was unable to find any of his retained papers connected with his duties in the field; that they were either lost or stolen previous to her arrival; and the evidence shows that she has made due and diligent search for the same since the decease of her said husband, without effect.

"The evidence of W. W. Lowe, late colonel Fifth Iowa Cavalry, with whom the deceased served as regimental and brigade quartermaster, and others, shows that the deceased enjoyed an enviable name for integrity, and that the said colonel is satisfied the deceased turned over all moneys and property for which he was accountable.

"Under these circumstances, with evidence that the officer had faithfully served his country in time of need, that his character for integrity is unimpeached, and the great hardships that would follow by compelling and distressing his widow and heirs to sacrifice their property to meet an unsettled account of an officer who, if living, could make answer to these statements of differences, your committee believe that justice would be promoted by the passage of this bill.

"And your committee call attention to the wording of this bill, which provides that the accounting officers of the Treasury are to allow a statement verified, or such other satisfactory evidence, where the proper vouchers cannot be procured, in the settlement of the accounts of the deceased, thus protecting the government to the full extent that is possible under the circumstances."

From the evidence accompanying the record, your committee concur in the conclusions of the House committee, especially since the terms of the act are in accordance with precedents heretofore established by the Senate Committee on Military Affairs. The sudden death of Lieutenant Smith, while in Washington for the purpose of settling his accounts, would seem to entitle his heirs to the relief contemplated by the act.

A careful examination by the committee of the papers accompanying the bill satisfies the committee that its former report was correct.

Wherefore, the committee report back Senate bill 287, without amendments, and recommend that it do pass.

O

'TH CONGRESS, 2d Session. | SENATE. | REPORT No. 200.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1880.—Ordered to be printed.

r. BURNSIDE, from the Committee on Military Affairs, submitted the following

REPORT:

e Committee on Military Affairs, to whom was referred the petition of Mrs. Flora A. Darling, praying the passage of a law referring her claim for bonds and money alleged to have been taken from her on a flag-of-truce boat during the late war to the Secretary of War, have had the same under consideration, and beg leave to make the following report:

Mrs. Darling is the widow of Edward I. Darling, late a general in the nfederate army, who was killed near Franklin, Tenn., November, 1863. the following month she left Tennessee with a view of returning to e North under a pass given to her by General Dabney Maury, of the nfederate army. She succeeded in getting on a flag-of-truce boat, d arrived in New Orleans. Her baggage was taken charge of by a rgeant of the United States Army, whom she asserts took from one of r trunks a package containing $5,000 in State bank-notes and $10,000 Confederate cotton bonds, and that he immediately took her before a litary commander, who, after examining her, gave her permission proceed North on the next steamer, but, in the mean time, she s confined in the Julia street prison. She remained in that ison eight days. She obtained an interview with General Banks, o informed her that she was confined without his knowledge, d sent her before General Bowen, provost-marshal, with instrucns to him to inquire into the circumstances connected with the izure of her trunks. The result of this investigation was that her nks were restored to her, but she asserts that every article of the ghtest value had been taken from them. The day after this investation she was placed on board of a government steamer for New York, her own request, and arrived at that place April 5, and soon after turned to the home of her parents in New Hampshire. She also asrts that within a short time she presented the claim for redress to esident Lincoln, but no record of such claim appears until June 11, 1866, which date she addressed a letter to the Adjutant-General of the my, in which she made a statement of her claim. This claim was ected by the War Department for want of evidence. Her claim was bsequently submitted to the Committee on Claims of the Senate, and the 12th of February, 1879, that committee made an adverse report on it (report No. 755, Forty-fifth Congress, 3d session.) That report adopted as a part of this report, and is as follows:

Mr. HOAR, from the Committee on Claims, submitted the following repor

The Committee on Claims, to whom was referred the memorial of Mrs. Flora A. l praying compensation for certain injuries suffered by her, and certain property tal her, have considered the same, and report:

Mrs. Darling alleges that she is the widow of Edmund A. Darling, who wa eral in the Confederate army; that her husband was killed in battle near F Tenn., in November, 1863; that she was a native of New England, and, althong taining the highest regard for her husband, always loyal to the United State after her husband's death, having settled up her affairs as his widow, she de return to the North, where she had left her infant child with her father, and reside permanently; that she applied to General Maury, Confederate comm Mobile, for permission so to return; that General Maury, in her behalf, ap General Banks, then commanding the Department of the Gulf, for permission to go on a United States flag-of-truce boat; that a permit was accordingly her; that she was received on board such boat and thereon conveyed to New (that while on said boat she was arrested by a United States sergeant, by order eral Bowen, provost-marshal general of the department, her trunks seized, $1 Confederate cotton bonds, $5,000 in State bank-notes, $43 in specie, and some di taken from them; that she was taken by said sergeant before a military com of three officers, "by whom she was interrogated and informed that she could North on the next steamer, but in the mean time must go to Julia street pris General Bowen, who had ordered her arrest, could be informed of their de that she remained in prison eight days, under arrest for three months, when tained an interview with General Banks, who expressed ignorance of her arr sent her with a staff-officer to General Bowen, who "expressed ignorance of w been taken from her"; that she was subsequently sent North on a government s that her trunks were restored to her, but the articles above-named were never r to her. She claims that the acts from which she thus suffered were a viol a flag of truce, for which violation the government is bound to compensate h has submitted an argument prepared by counsel, and several urgent private nications all based on this theory.

But we are of opinion that the principles governing flags of truce have whatever to do with the case. The flag of truce protects the citizens or so one belligerent when they enter the territory or expose themselves in any wa power of the other. Mrs. Darling did not come to New Orleans under a Con flag of truce. She was a person loyal to the United States, who had gone Confederate territory by leave of its authorities, and who had a permit t within the power of the United States, where she expected to remain and tak abode as a citizen of the United States. Her rights as against the exercis powers of our government, civil or military, were not in the least affected by that the boat on which she took passage carried a flag of truce. That flag protection against Confederate, not against Union, authority. Her rights quired under the permit or passport which she received from General Banks.

Although Mrs. Darling was a person who claimed to be loyal in her own and to have gone South by permission and for a temporary purpose, it is d true that her position as wife and widow of a Confederate general, and her p of property collected in the Confederate territory, might have rendered her p liable to arrest on attempting to re-enter our lines without a permit. It doubtless true that a passport issued by competent authority ought to be respe flag of truce is respected, and that there is high authority for saying "that a ment that promises security by a passport is morally bound to afford it agains its subjects or forces, and make good any damages that the party might su violation of the passport." If we admit this principle in its full extent it r haps be doubted whether it is applicable to a case arising between a governn its own citizens, who having gone into hostile territory for a temporary pur tain a pass or authority to enable them to return. It might be urged with gr that such citizens have no greater right to demand indemnity from their gov than any other citizens who suffer from false accusations or unfounded or arrests. But we do not find it necessary to determine this question in the case, in the absence of further evidence.

Fifteen years have elapsed since the transactions of which petitioner compla she made application for redress within two or three years. We cannot feel in finding material facts, as established on her unsupported testimony, w failed to get other evidence, which, by reasonable diligence, she might and have secured.

The first thing to be established is the existence and terms of the passpor she claims to have received from General Banks. She says in her memorial, she makes affidavit, that General Maury "obtained from General Banks pe

she should go to the North under the protection of a flag of truce." Captain on, a flag-of-truce officer, says in his affidavit made January 24, 1874, that he, lirection of General Banks, delivered to Mrs. General Darling a permit to enter)rleans."

or Beckwith, who was at the time of the transactions in question in command of the ses of New Orleans, on the 16th of August, 1866, makes report to the Adjutant-al, in which he states with great fullness and minuteness the incidents of Mrs. ıg's arrest.

report is as follows:

"WASHINGTON, D. C., *August* 16, 1866.

R: For reasons which will sufficiently appear in the course of the following re-, I shall state somewhat at length the incidents of Mrs Darling's arrival in New ıs, as I remember them after a lapse of more than two and a half years.

e is mistaken in stating that I was provost-marshal of the city of New Orleans time of her arrival or at any time. I was, however, at that time (the exact not remembered) in command of those parts of the States of Louisiana and sippi called the 'Defenses of New Orleans.'

fugees, or parties claiming to be such, and others, in numbers, daily arrived at ckets and outposts, where they were taken into military custody and sent, charge of guards, to headquarters, and retained in proper quarters (the men in ıuse, the women in another), and a board of officers employed daily in session to ne these persons and the circumstances of their arrivals, and to report to me in g all the facts elicited in each case, when such further action was taken as the equired; or, if not satisfactory, the persons were brought before me for further nation before deciding what disposition to make of them. Mrs. Darling un-edly was examined by this board, which she calls a commission; if so, the report case made to me by the board was left on file, with all other similar reports, at adquarters of the defenses of New Orleans when I was relieved from that com-and should be now with those records. But whether it be there or not, Mrs. g came before me in person and made in substance the following statement, y: That she was the widow of Brigadier-General Darling, of the Confederate army, who had been wounded and taken prisoner at the battle of Murfrees-gh, about the last of December, 1862, or 1st of January, 1863; that she had been ted to join him within our lines, and had there attended to him until he died oon afterward; that she was a native of one of the New England States, where d lived until a few years before; that, although entertaining the highest regard r husband, she was, and had always been, herself truly loyal to the United and after her husband's death had gone to her friends in New England for a that thence she went to New York City, and there left her infant to be nursed red for; and that, in her absence, its care was to be supervised by (perhaps others) "her friend, Hon. Fernando Wood"; that to aid her to return South ok after her pecuniary affairs, her friends had there furnished her with letters ng for her loyalty and misfortunes, and that she had presented them to the ıble Secretary of State, Mr. Seward, to whom they were addressed; that Mr. d had so favorably considered them that he in person accompanied her to the epartment, and presented her case to the Secretary of War, Hon. E. M. Stanton, t once gave her a pass, and sent her, by transport, to the Army near Fredericks-where she was received, and remained one night at General Hancock's (?) head-rs, and was thence sent by him through his lines to those of the Confederate ıl Anderson's (?), where (being the widow of a Confederate general officer) she ndly received and conducted to Richmond, where she remained a short time, en proceeded to near Chattanooga; but not being able to remain at her own which lay between the lines of the two armies, or so as to be liable to daily from either, she remained some months the guest of the Confederate General e, with his family, at his headquarters, leaving shortly before the battle of nt Mountain; that she went thence to Mobile (having determined to return if practicable), and with much difficulty had obtained from General Maury, lerate commander there, permission to pass through his lines; that she went to Pascagoula, and was there but a short time awaiting some opportunity to New Orleans, quite willing to risk being sent back or arrested and detained if uld reach there, when a flag-of-truce boat arrived, and she persuaded the officer rge to allow her passage on its return to New Orleans.

y remembrance is (but it is barely possible that upon this point, after so long a I have confounded some other cases with Mrs. Darling's) that she had no pass ver from General Banks, or any one else who had a right to give it, to enter our ınd that the flag-officer was at once arrested for bringing her in (and that he nly released because the proper orders sent to him had not reached him, to back no one not provided with a proper pass).

ım not now certain that she said that in Richmond she had visited at, or been ıest of, Jefferson Davis, although such is my impression; but I am positive that

she said she had certain notes of invitation or letters from him in reply to preferred requests, as she had from many noted Confederates (generals and others), and also from men of distinction in Washington and New York, again naming Fernando Wood. All these, she said, had been examined, and at first had caused much suspicion to rest upon her, but had, upon conclusion of the examination (by whomever made), been returned to her, and that if I desired she would bring them to me. She said nothing to me that I can recall of a private journal; nothing of having been rudely treated by any one (whichst ruck me as unusual); certainly nothing of bonds, notes, specie, other valuables, or receipts for diamonds having been taken from her, or retained by any one, or of having any such, except perhaps the silver box, with regard to which I am very uncertain.

"She gave me most distinctly to understand that her expenses in reaching Pascagoula had been very heavy; that from her husband's large property she had been able to secure little or nothing that was immediately available, unless she would take bank-notes and Confederate bonds, which were of but trifling value, and that, therefore, she would not take them, and had but a mere trifle of money with her, insufficient to defray her personal expenses more than a few days; that, if allowed, she should remain, however, some time at the Saint Charles Hotel.

"I could not have assured her, as she says I did, that her property, which she says also was in the hands of General Bowen (and his assistant), provost-marshal-general of the Department of the Gulf, should be restored to her, for General Bowen was not in the remotest degree under my command. I referred her to General Bowen upon some point not within my jurisdiction, of which I have not a distinct remembrance, but believe it was to obtain a pass when she should desire to leave New Orleans. She did not tell me that her house was occupied as headquarters for the Army as the reason why she could not occupy it, nor that her husband was wounded and died in December, 1863, as she now states.

"I was relieved from the command of the defenses of New Orleans on the 12th of January, 1864, and, therefore, it was before that date that Mrs. Darling arrived in New Orleans and was examined by me, when she was neither in mourning nor afflicted with apparent grief, but was, on the contrary, quite the opposite in spirits.

"Subsequent to this interview I never saw nor have I any remembrance of having heard of Mrs. Darling until these papers were presented to me for this report, and therefore, I know nothing of her alleged arrest and parole by General Bowen.

"Very respectfully, your obedient servant,

"E. G. BECKWITH,
"*Major Second Artillery, Bvt. Brig. Gen.*

"The ADJUTANT-GENERAL, *United States Army.*"

Mrs. Darling subsequently obtained from Major Beckwith the following letter:

"WASHINGTON, D. C., *March* 18, 1874.

"DEAR MADAM: Referring to my indorsement regarding your claim when before the War Department some time ago, I am satisfied that, without seeing it again, I ought to correct, so far as I can here, any unfavorable statement or impression I may have given in it regarding your private position or character at the time you applied to me to be released from confinement in New Orleans; for all that was unfavorable in that respect in my own mind more recent interviews have entirely removed, and I am now satisfied that I was then mistaken, and I gladly avail myself of this opportunity to say this to you and to your friends, so far as this letter can say it.

"Besides, that report was made some years after the facts and from the impression of a single interview, and its statements should have been, if they are not, guarded as to full and positive remembrance, at least as to some of the facts and impressions to which it refers, and as to the certainty that after such a lapse of time there was not the possibility of your case in any degree being confused and confounded in my mind with others.

"I am, madam, with much respect, your very obedient servant,

"E. G. BECKWITH,
"*United States Army.*

"Mrs. DARLING."

Now, making due allowance for the possibility that Major Beckwith may have confused Mrs. Darling's case with some other after the lapse of two and a half years, it is certainly no stronger than the likelihood that Captain Tileston may have done the same after the lapse of ten years. If these two statements neutralize each other, the evidence that Mrs. Darling had any passport at all is her own unsupported declaration that General Maury obtained from General Banks permission that she should go to the North under a flag of truce. In the absence of any record or trace of any such permission, we cannot regard this allegation as evidence sufficient to warrant a payment from the Treasury of the United States. Mrs. Darling is said to be a lady of good

er and standing. This we do not question, but we must act on rules applica-
ll citizens alike, and cannot adopt different rules of conduct for the government
ladies of good character and standing and others. We cannot think the evi-
Captain Tileston, first given ten years after the transaction, contradicted as
that of Major Beckwith, enough to substantiate this claim upon the Treasury.
er, it appears that Mrs. Darling was carried before a commission of three offi-
o were daily in session for the examination of such cases, and who, instead of
her discharge and the restoration of her property, remanded her into custody,
she was kept in New Orleans on parole for three months. We must presume
sence of other evidence that there was good reason for this act.
plied for redress to President Lincoln shortly after her release. He directed
tigation to be made by the Bureau of Military Justice. The following report
e thereon by the Judge-Advocate-General:

"WAR DEPARTMENT,
"BUREAU OF MILITARY JUSTICE,
"*Washington, D C., July* 19, 1866.

ectfully returned to the Secretary of War.
within is the application of Mrs. Flora L. Darling—the widow of a so-called
r-general in the late rebel army—to have paid to her 'immediately' the sum
6.02, being the amount (including interest) of certain moneys and securities
e represents to have been illegally taken from her by the military authorities
Orleans in January, 1864.
he original amount taken, the sum of $10,000 is stated by her to have been in
onds of the rebel government. These, she claims, were worth $8,500 in gold
me, and in greenbacks $21,250. She therefore charges for them at the latter
Of the remaining items the sum of $5,000 was in bank-notes of "old" Tennes-
Georgia, for which she charges at their par value; and the sum of $43 was in
hich she estimates at $107.50 in greenbacks. The last item of her account is
the expenses of her detention in confinement and on parole in New Orleans;
e full amount of these sums is added $3,768.52 as interest for two years at 7

rding to Mrs. Darling's statement, the moneys and bonds referred to were
m her by a sergeant of the provost-guard, upon her landing in New Orleans
-of-truce boat from Mobile. She further says that upon her arrival she was
and imprisoned, and, though afterwards released upon parole, was detained
t three months before she was suffered to proceed to the North; and that
his time she made every effort to recover the property taken, but without

application of Mrs. Darling having been referred to the military authorities at
eans for investigation, no trace of the property and no information whatever
l to its seizure has been found possible to be obtained. This is probably ow-
eat part to the long period which has intervened since the proceeding com-
of, and to the *laches* of the applicant in prosecuting her claim.
gard to the merits of such claim, it need only be said that as far as the rebel
s are concerned the seizure was clearly authorized. No flag of truce could
uch bonds—which have invariably heretofore been held as illegal and dis-
blications, intended to give aid and comfort to the enemy—from confiscation
ruction. On the contrary, a party availing himself of a flag of truce to bring
rities within our lines would be guilty of a violation of the truce and become
e to trial and punishment. It was probably the discovery of these bonds in
ling's baggage which led to her subsequent detention by the military author-

the merits of the claim in respect to its other items, it is impossible—in the
of any evidence whatever in support of the statements of the applicant—to
any final conclusion. It is clear, however, that after a careful investigation
these moneys can be found in the hands of any officer of the government, and
re is thus no existing property of the party which can be restored io her *in*
In any event, therefore, the military department—whose power would be
o such a restoration—would be wholly without the means or authority to grant
f in the case.

"J. HOLT,
"*Judge-Advocate-General.*"

he whole case we are therefore of opinion—
That there is not evidence sufficient to warrant us at this distance of time in
hat Mrs. Darling had a permit.
. That there is no evidence that will warrant us in finding that she had a
at warranted her in bringing with her Confederate bonds.
That there is not evidence which warrants the finding that she lost property,
was its value.

Fourth. That we are not warranted in finding that her original arrest, or the decision of the military commission ordering her detention on parole, was not for good cause.

Fifth. The Bureau of Military Justice having held that the possession of rebel securities was illegal, and that a person availing himself of a flag of truce or passport to bring the same within our lines would be amenable to trial and punishment, we do not think Congress ought to act against the authority of that opinion.

We therefore report that the prayer of the memorialist ought not to be granted, and that her petition be indefinitely postponed.

The evidence which Mrs. Darling gives as to the existence of the property that she claims was taken by the sergeant when he took possession of her trunks, is that of Governor Brown, who testifies that she was a well-to-do person, and that she was collecting her resources in Tennessee with a view to going North; and the testimony of John A. Soto, who says that he saw packages which she said contained the bank-bills and confederate bonds, and her own statement. This is not evidence upon which a court of law would award a verdict in her favor, and, as guardians of the public treasure, your committee cannot, on such evidence, award a verdict against the government. They, therefore, report unfavorably upon her petition, and ask to be discharged from its further consideration.

H CONGRESS, 2d Session. } SENATE. { REPORT No. 201.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1880.—Ordered to be printed.

r. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 876.]

Committee on Military Affairs, to whom was referred the bill (S. 876) for e relief of Edward Corselius and seven other persons, late members of e First Michigan Cavalry Veteran Volunteers, has duly considered the me, and submit the following report:

iis bill directs the Adjutant-General of the Army to remove the ge of desertion from the several names of Edward Corselius, Jesse losner, George Hopkins, Wilson M. Wright, William E. Clark, ge W. Cramton, Matthew McDermott, and Ephraim Allen, late bers of the First Michigan Cavalry Veteran Volunteers, and that be allowed and paid the back pay and bounty due them respect- in the same manner, and to the same extent, as if the charge of rtion had never been made.

is bill devolves upon your committee the settlement of the proper y of the government in relation to desertion, and the disabilities ent to it, and an ascertainment of the existing laws touching deser- and the disabilities affixed thereby, and whether under existing equal and exact justice can be meted out by the War Department other departments of the government to all against whom such ges exist, and whether the special legislation provided in this bill oper and wise.

fore proceeding to the general questions involved, your committee examine these particular cases included in the bill.

the Forty-fourth Congress a precisely similar bill was presented to enate and referred to the Committee on Military Affairs, and was ebruary 29, 1876, reported back to the Senate adversely and in- itely postponed. The report then made by Mr. Cockrell is as vs:

bill seeks to have the charge of desertion removed from the several names of rsons mentioned in it, late members of the First Michigan Cavalry Veteran Vol- s, and to have allowed and paid to them back pay and bounty, the same as if id charge of desertion had never been made.

only evidence submitted with the bill is a letter dated "Midland, Mich., October 3," addressed to Hon. Z. Chandler, and signed Edward Corselius. In this letter rselius states that in August, 1861, he enlisted as a private in Company A, First ent Michigan Cavalry, and served continually with his regiment through all the s with the armies of the Shenandoah, Virginia, and Potomac; re-enlisted as a n soldier at Stevensburgh, Va., in December, 1863; received a severe wound in gagement near Winchester, Va., on August 11, 1864; rejoined his regiment in

December, 1864; participated in the subsequent campaigns under Generals She and Grant, terminating in the surrender of General Lee at Appomattox Court-l in April, 1865.

That, "at the close of the war, his regiment, against the remonstrances of th who composed it, was hurried off to the plains and there kept until the year With many of the regiment, who felt outraged by this unjust treatment for pa service rendered the country when that service was needed to preserve the Uni refused to accompany the regiment across the plains, and being refused an hon discharge, in company with other veterans he left the regiment without it and to his home in Ann Arbor, Mich. At the time of leaving there was due him, be discharge, between three and four hundred dollars, all of which he had earned by ful and honorable service. This discharge and these rewards for arduous servi claims and has never ceased to claim.

"For his faithfulness as a soldier he refers to his Army record. The only fl that is the action which he has frankly stated and of which he is not ashamed."

The foregoing are extracts from his letter and the only evidence. It is pre that the facts in regard to each of the other persons named in the bill are the Admitting all the statements in the letter to be true, do they entitle said pers the relief prayed for? For the gallant bearing and valuable services of these s the country will honor them; but shall Congress remove from them the well-k consequences of their own well-considered and matured actions in willfully and ingly disobeying the orders of their government, and making themselves th arbiters of the justness and necessity of the orders of their government?

Your committee, therefore, recommend that the relief be not granted, th report be adopted, and the said bill indefinitely postponed.

This bill (S. 876) was introduced December 16, 1879, and is acco nied by the affidavits of Corselius, Clark, McDermed, and Cramton a petition signed by Corselius December 11, 1879, and a written ment, which is as follows, to wit:

To the Committee on Military Affairs:

GENTLEMEN: In behalf of myself and seven other persons late members of the Regiment of Michigan Calvary Veteran Volunteers seeking relief from Congress, sire, with your permission, to state the grounds on which legislation is sought asking pardon for the manner (if it be an unusual one) of bringing an argume rectly from the petitioners themselves to the consideration of your committee.

The main facts in this case are contained in the sworn statements of a port your petitioners submitted for the consideration of the committee. That the evi is not fuller, is owing partly to the lapse of time since the close of the war, whic necessarily obliterated much valuable information from memory, and also has prec the obtaining of testimony from officers of the regiment whose whereabouts are n known. Besides, the knowledge that any evidence, save that of record in th Department, would be required by your committee, is of very recent date. It app to the petitioners a clear case for Congressional action, and we rested under the that so soon as a bill should pass Congress for our relief it would then be incu on each of the petitioners to apply in the ordinary way of obtaining claims again government.

It may be asked why have the applicants been thus dilatory in seeking relief? wait so long after the close of the war before asking from Congress any action case? The answer is, that application was made to Congress only after fruitless to obtain honorable discharges and payment of the claims through the ordinary nels. Your petitioners were led to believe, that as the claims were a just charge a the government they could be very properly intrusted to agents for collection. wards, when it became apparent that some action by Congress would be necess reach the case of the petitioners, we relied on the merits of our case, and, takin oft expressed sentiments of gratitude for the defenders of the country, embod platforms of both of the great political parties, and reiterated by orators on the and in Congress, in their literal sense, we confidently looked to the representati the people to give practical illustration to these sentiments of regard, by appro legislation, in a case which, as it appeared to the petitioners, plainly called for it. thought that if professions thus publicly made were sincere, the class of soldi which we were a part could at least look for an act of simple justice from Con

The treatment of volunteer soldiery at the close of the rebellion (the suppres which was the prime object of their enlisting), by hurrying them off to our re frontiers and across the plains, in the face of protest, was not unknown to the of this country. On the contrary, this act of manifest injustice excited general nation; and good citizens could find nothing to condemn in the conduct of brav who, after serving their country faithfully through four years of war, refused in of profound peace to follow the life of soldiers.

I now desire to call the attention of your honorable committee to the promises held out to veterans of my regiment at the time of re-enlistment at Stephensburgh, Va., in December, 1863. It will be remembered that that was the darkest time in the history of the rebellion. The war was at its height—the enemy strong and defiant. The term of enlistment of many of our trained regiments was about to expire, and the government wisely foresaw the necessity of retaining as many of the old troops in service as possible, to give discipline to our armies fast filling with recruits. It was thus that large inducements were offered to old soldiers to re-enlist. At that time our regiment was paraded by the then colonel, Charles H. Town, who explained to us the inducements offered, and expressly stated to us that as many as should re-enlist and serve to the end of the war should be mustered out of service at the close, receiving all the benefits promised. That was the plain understanding, and no doubt had Colonel Town been spared he would have seen that the promise was faithfully carried out.

At the time of our transportation from Washington to Fort Leavenworth, Kans., at the end of the war, fully one-half of the horses in the regiment were unfit for duty, owing to hard service in Virginia during the last campaign there, and many of the men were entirely dismounted. There was at that precise time, as we had reason to believe, a general order from the War Department directing that all dismounted cavalrymen be discharged. We believed that our colonel, Peter Stagg, in order to continue his rank and pay, made false reports as to the condition of the regiment in this respect.

These, gentlemen of the committee, not to trench too greatly on your time, were some of the reasons which actuated us in leaving the service without discharges. We justify the act by the leading causes here stated, and we appeal to Congress for justice long deferred. We ask you to consider our long and faithful service all through the war. Some of us now bear upon our persons the best of evidence of that service. In this year of general amnesty we think that we, as faithful soldiers of the republic, at a time when service meant something, are entitled to consideration at the hands of Congress, and most respectfully ask for such legislation as will give us our discharges, together with back pay and bounty.

In behalf of the petitioners:

EDWARD CORSELIUS.

Your committee addressed a letter of inquiry to the Secretary of War, and received the following reply and accompanying papers, to wit:

WAR DEPARTMENT,
Washington City, January 13, 1880.

SIR: I have the honor to return herewith Senate bill 876, for the relief of Edward Corselius and seven other persons, late members of the First Michigan Cavalry Veteran Volunteers, inclosed in your letter of the 7th instant, and, in reply to your inquiries, to invite your attention to the inclosed report of the Adjutant-General, dated the 7th instant.

The department is unable to express an opinion as to the merits of their respective cases, no facts having been presented in favor of the men upon which one could be based.

Very respectfully, your obedient servant,

ALEX. RAMSEY,
Secretary of War.

Hon. F. M. COCKRELL,
Committee on Military Affairs, United States Senate.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, January 7, 1880.

SIR: I have the honor to return herewith letter of Hon. F. M. Cockrell, United States Senate, of and in behalf of the Senate Committee on Military Affairs, inclosing Senate bill 876, and requesting full military history of the men mentioned therein; what evidence they have presented to the department for the removal of the charges of desertion standing against them, and the action had thereon; the amount of money each would receive under the provisions of said Senate bill 876, were it to become a law, as well as all pertinent data and information relating thereto; how many similar cases may probably exist, and the views of the department as to the propriety of recommending the passage of the bill by the Senate Committee—with report as requested.

The military history of the men is herewith inclosed. With one exception (that of Matthew McDermott, Company H, First Michigan Cavalry Volunteers) no final action has been had in the cases of any of the men whose relief is contemplated by the bill in

question. Inasmuch as the charges against them have been properly made an cordance with the fact the Adjutant-General is prohibited by the law (joint re approved March 1, 1870) from removing them, and would have so advised th they applied. In the case of McDermott a discharge certificate was issued to November, 1869, to date from the date of and by reason of desertion.

As to the amount of money each would receive were the charges removed, th has no means of knowing, the record of the soldiers' money accounts being solely the jurisdiction of the Second and Third Auditors of the Treasury. Nor has thi any means of arriving at even an approximate estimate of the number of simil still undisposed of. In September, 1865, it was estimated that the number of d from the volunteer army still at large was not far from 250,000. How many of th have since satisfied the department that they were not deserters in fact cann be ascertained; probably 1 per cent. would be a large estimate.

In this connection the Adjutant-General has forwarded to the Military Co of the Senate a statement which will embody in detail his views on the gener ject of deserters from the volunteer army, in response to a letter of inqui Senator Cockrell.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND
Adjutant-Ge

The Hon. SECRETARY OF WAR.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFIC
Washington, D. C., January 7,

SIR: I have the honor to acknowledge the receipt of your letter of the 23 December, 1879, requesting a "statement of service" of Edward Corselius.

The following information has been obtained from the files of this office, a spectfully furnished in reply to your inquiry:

It appears, from the rolls on file in this office that Edward Corselius was enr the 23d day of August, 1861, at Detroit, in Company A, First Regiment of M Cavalry Volunteers, to serve three years, or during the war, and mustered into as a private on the 3d day of September, 1861, at Detroit, in Company A, Fir ment of Michigan Cavalry Volunteers, to serve three years, or during the w the muster-rolls of Company A of that regiment, from muster in to December 31, is reported present for duty. He re-enlisted as a veteran volunteer December Rolls of Company F, same regiment (to which transferred), from January 1 to 1864, reports him present. July and August, 1864, absent at General Hospital Pleasant. September and October, 1864, absent sick in hospital, Baltimore, M vember and December, 1864, absent sick since September 1, 1864. From Ja to April 30, 1865, present. May and June, 1865, not on file. Roll dated Noven 1865, reports him deserted at Leavenworth, Kans., July 6, 1865. No muster-ou company on file; it was consolidated with other companies of this regiment ber 17, 1865.

I am, sir, very respectfully, your obedient servant

S. N. BENJAMI
Assistant Adjutant-Ge

The CHAIRMAN COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Washington, D. C.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFIC
Washington, D. C., January 7

SIR: I have the honor to acknowledge the receipt of your letter of the 23 December, 1879, requesting a "statement of service" of Jesse J. Hosner.

The following information has been obtained from the files of this office, an spectfully furnished in reply to your inquiry:

It appears from the rolls on file in this office that Jesse G. Hosner was enr the 21st day of August, 1861, at Detroit, in Company A, First Regiment of M Cavalry Volunteers, to serve three years or during the war, and mustered i vice as a private on the 3d day of September, 1861, at Detroit, in Company Regiment of Michigan Cavalry Volunteers, to serve three years or during t On the muster-roll of Company A of that regiment, dated October 31, 1861, ported present. November and December, 1861, absent on detached service. quent rolls to December 31, 1862, present. January and February, 1863, prisoner in hands of enemy. March and April, 1863, paroled prisoner at A

and June, 1863, present. July and August, 1863, absent, sick at Frederick, Md. from September 1 to December 31, 1863, present. He re-enlisted as a veteran nteer December 21, 1863. Rolls of Company F, same regiment (to which trans-d), from January 1 to June 30, 1864, reports him present. July and August, absent on sick furlough. September and October, 1864, absent. November and mber, 1864, present, and so reported to April 30, 1865. Rolls for May and June, and August, 1865, not on file. Roll dated November 17, 1865, reports him de-d at Leavenworth, Kans., July 6, 1865. No muster-out roll of company on file; it consolidated with other companies of the regiment November 17, 1865.

I am, sir, very respectfully, your obedient servant,

S. N. BENJAMIN,
Assistant Adjutant-General.

he CHAIRMAN COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Washington, D. C.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., January 7, 1880.

R: I have the honor to acknowledge the receipt of your letter of the 23d day of mber, 1879, requesting a "statement of service" of George Hopkins.

he following information has been obtained from the files of the office, and is re-tfully furnished in reply to your inquiry:

appears from the rolls on file in this office that George Hopkins was enrolled on 7th day of August, 1861, at Armada, in Company L, First Regiment of Michigan lry Volunteers, to serve three years, or during the war, and mustered into ser-as a private on the 6th day of September, 1861, at Detroit, in Company L, First ment of Michigan Cavalry Volunteers, to serve three years, or during the war. he muster-rolls of Company L of that regiment for the months from muster in to ruary 28, 1862, he is reported present. From March 1 to June 30, 1862, absent on ched duty in telegraph office, and so reported to August 31, 1862. From Septem-to December 31, 1862, present. January and February, 1863, absent, detached as carrier. Subsequent rolls to April 30, 1865, report him present. He re-enlisted veteran volunteer December 21, 1863. Roll for May and June, 1865, not on file. mental return for July, 1865, reports him deserted at Leavenworth, Kans., July 7, Name not borne on muster-out roll of company, dated March 10, 1866.

I am, sir, very respectfully, your obedient servant,

S. N. BENJAMIN,
Assistant Adjutant-General.

he CHAIRMAN COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Washington, D. C.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington D. C., January 7, 1880.

R: I have the honor to acknowledge the receipt of your letter of the 23d day of mber, 1879, requesting a "statement of service" of Wilson M. Wright.

he following information has been obtained from the files of this office, and is re-tfully furnished in reply to your inquiry.

appears from the rolls on file in this office that Wilson M. Wright was enrolled he 16th day of August, 1861, at Detroit, in Company A, First Regiment of Michi-Cavalry Volunteers, to serve three years, or during the war, and mustered into serv-as a private on the 3d day of September, 1861, at Detroit, in Company A, First Regi-t of Michigan Cavalry Volunteers, to serve three years, or during the war. On the ter-rolls of Company A of that regiment for the months from muster-in to December 1861, he is reported present. January and February, 1862, absent, sick in hospital. ch and April, 1862, absent. Subsequent rolls to June 30, 1863, present. July and ust, 1863, absent with leave. From September 1 to December 31, present. He re-en-d as a veteran volunteer December 21, 1863. Rolls of Company F, same regiment which transferred), from January 1, 1864, to April 30, 1865, report him present. and June, July and August, 1865, not on file. Roll dated November 17, 1865, re-him deserted at Leavenworth, Kans., July 6, 1865. No muster-out roll of com-on file. It was consolidated with other companies of the regiment November 1865.

I am, sir, very respectfully, your obedient servant,

S. N. BENJAMIN,
Assistant Adjutant-General.

o the CHAIRMAN
Committee on Military Affairs U. S. Senate, Washington D. C.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., January 7, 1

SIR: I have the honor to acknowledge the receipt of your letter of the 23d December, 1879, requesting a "statement of service" of William E. Clark.

The following information has been obtained from the files of this office, and spectfully furnished in reply to your inquiry:

It appears from the rolls on file in this office that William E. Clark was enrol the 13th day of August, 1861, at Detroit, in Company A, First Regiment of Mic Cavalry Volunteers, to serve three years, or during the war, and mustered into s as a private on the 3d day of September, 1861, at Detroit, in Company A, First ment of Michigan Cavalry Volunteers, to serve three years, or during the wa the muster-rolls of Company A of that regiment for the months from muster-in t 30, 1862, he is reported present. July and August, 1862, absent, sick in hospit so reported to June 30, 1863. From July 1 to December 31, 1863, present. He listed as a veteran volunteer December 21, 1863. Rolls of Company F, same re (to which transferred), from January 1, 1864, to April 30, 1865, report him p May and June, July and August, 1865, not on file. Roll dated November 17, 18 ports him deserted at Leavenworth, Kans., July 13, 1865. No muster-out roll o pany on file. It was consolidated with other companies of the regiment Novem 1865.

I am, sir, very respectfully, your obedient servant,

S. N. BENJAMIN
Assistant Adjutant-Ge

The CHAIRMAN
Committee on Military Affairs, U. S. Senate, Washington, D. C.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE
Washington, D. C., January 7,

SIR: I have the honor to acknowledge the receipt of your letter of the 23d December, 1879, requesting a "statement of service" of George W. Crampton.

The following information has been obtained from the files of this office, an spectfully furnished in reply to your inquiry:

It appears from the rolls on file in this office that George W. Crampton was enr the 20th day of August, 1861, in Lapeer, Lapeer County, in Company F, First Re of Michigan Cavalry Volunteers, to serve three years, or during the war, and m into service as a private on the 21st day of August, 1861, at Detroit, in Comp First Regiment of Michigan Cavalry Volunteers, to serve three years, or duri war. On the muster-rolls of Company F of that regiment from muster-in to De 31, 1863, he is reported present. He re-enlisted as a veteran volunteer Decem 1863. January and February, 1864, absent, sick in hospital, and so reported t 30, 1864. May and June, 1864, reports him "George W. Cramton, absent, sick at ington, D. C." From July 1 to October 31, 1864, absent, sick at Giesboro' Poi November and December, 1864, absent at Remount Camp, Md. From Januar April 30, 1865, present. May and June, July and August, 1865, not on file. Rol November 17, 1865, reports him deserted at Leavenworth, Kans., July 13, 18 muster-out roll of company on file. It was consolidated with other companies regiment November 17, 1865.

I am, sir, very respectfully, your obedient servant,

S. N. BENJAMIN
Assistant Adjutant-Ge

The CHAIRMAN
Committee on Military Affairs, U. S. Senate, Washington, D. C.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE
Washington, D. C., January 7,

SIR: I have the honor to acknowledge the receipt of your letter of the 23d day cember, 1879, requesting a "statement of service" of Matthew McDermott. T lowing information has been obtained from the files of this office, and is furni reply to your inquiry:

In the case of Matthew McDermott there is no original enlistment or muste showing him to have been enrolled or mustered into the service of the United as an enlisted man in Company H of the First Regiment of Michigan Cavalry teers on file in this office up to date.

The muster-rolls of Company H of that regiment contain the following evidence of vice:

It is stated he enlisted as a private, to serve three years, and was mustered into serv- September 17, 1861, at Detroit, Mich. Rolls from muster-in to June 30, 1862, report n present. July and August, 1862, absent, sick in hospital. September and Octo- r, 1862, present. November and December, 1862, deserted November 6, 1862, near ashington. From January 1 to August 31, 1863, present. September and October, 3, absent at Dismounted Camp. Subsequent rolls to June 30, 1864, present. He re- listed as a veteran volunteer December 21, 1863. July and August, 1864, absent thout leave. From September, 1864, to April 30, 1865, present. Roll for May and ne, 1865, not on file. Regimental return for July, 1865, reports him deserted at Leav- worth, Kans.. July 20, 1865. His name is not borne on muster-out roll of company ted March 25, 1866. "He was dishonorably discharged December 3, 1869, to date rch 25, 1866, with loss of all pay, bounty, and allowances, per Special Orders 159, ragraph 1, Headquarters Department of the Lakes, November 16, 1869."

I am, sir, very respectfully, your obedient servant,

S. N. BENJAMIN,
Assistant Adjutant-General.

The CHAIRMAN
Committee on Military Affairs, U. S. Senate, Washington, D. C.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., January 7, 1880.

SIR: I have the honor to acknowledge the receipt of your letter of the 23d day of cember, 1879, requesting a "statement of service" of Ephraim Allen.

The following information has been obtained from the files of this office, and is re- ectfully furnished in reply to your inquiry:

It appears from the rolls on file in this office that Ephraim Allen was enrolled on the h day of August, 1861, in Lapeer, Lapeer County, in Company F, First Regiment of chigan Cavalry Volunteers, to serve three years, or during the war, and mustered o service as a sergeant on the 21st day of August, 1861, at Detroit, in Company F st Regiment of Michigan Cavalry Volunteers, to serve three years, or during the war. the muster-rolls of Company F of that regiment from muster-in to April 30, 1864, he reported present. He re-enlisted as a veteran volunteer December 21, 1863. May d June, 1864, absent in Dismounted Camp. Subsequent rolls to April 30, 1865, re- rts him present. May and June, July and August, 1865, not on file. Roll dated vember 17, 1865, reports him deserted at Leavenworth, Kans., July 1, 1865. No mus- -out roll of company on file. It was consolidated with other companies of the regi- nt November 17, 1865.

I am, sir, very respectfully, your obedient servant,

S. W. BENJAMIN,
Assistant Adjutant-General.

The CHAIRMAN
Committee on Military Affairs, U. S. Senate, Washington, D. C.

Your committee also addressed a letter of specific inquiry to the Ad- tant-General, and received from him the following reply, to wit:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, January 6, 1880.

SIR: In reply to your request of the 23d December, I have the honor to submit the llowing replies to questions in relation to the removal of charges of "desertion," bsence without leave," and "absence," from the records of soldiers.

The muster-rolls, hospital-returns, and papers of this class which contain the mili- ry history of soldiers, are technically called "records." These papers were made d signed as "correct" by commissioned officers, and by law are lodged in the War partment for safe-keeping. It has been the view of the department that when one cord is shown to be inaccurate or incomplete by another one, the faulty one may be rrected by annotation. But it has been proved by experience to be utterly unsafe change the official records upon affidavits or other testimony made by persons upon om but little responsibility rests, who rely on memory, and who are most frequently led on for their statements after the lapse of five, up to even fifteen, years of time. illustrate: The captain at muster-day reports a soldier "deserted," or "absent hout leave," because he has had no report from him and does not know where he is. in searching the returns from hospitals, or of prisoners of war, and other records,

the man can be found properly accounted for, the department removes the charge of desertion. If, on careful examination, the circumstances show absence without authority, with no intent to desert, but the contrary, the charge of desertion is removed, but that of absence without leave is substituted. If the reports tend to show a man reported first as "missing" in battle, or on the march, and afterward as "deserted," and there is seemingly reasonably reliable proof that he has never returned home, but was of such character that he would have done so if living, and that he had never since been heard from, the report is made "supposed to have been killed, missing at such date, and not since heard from."

In many instances soldiers absent at the muster-out of their regiments claim to have charge of desertion removed because they say the war was over, there was no farther need of their services, they were near home, and so left the regiment intending to be back at time of muster-out. This is regarded, generally, as a flagrant act of desertion. The man had no right to assume he was free from his obligation to serve, or from its necessity, till the proper authority so declared in its regular mode. Such acts committed on a march to meet some new column of the enemy might, if sufficiently numerous, jeopardize the success of the movement. This, then, is not received as a proper ground for removing the charge either of desertion or absence without leave.

It sometimes happens that a man who deserted, returned, and was *honorably* discharged at the end of his term, has his claim for bounty or pension rejected because of the charge of desertion against him on the records of this office. Some of the most persistent demands are made in these cases for removal of the charge. It is held that this department cannot falsify its records by removing the evidence of a fact, or by declaring a fact not to be so. The mistake is made of attempting to force this action on the War Department, instead of influencing the decision of the accounting officers, whose duty it is to judge of the merits of the case by the facts as applicable to the laws governing their administration. The ordinary construction put upon the President's pardon is that it removes from the man who has actually committed the crime all liability to trial by court-martial, or pain of arrest, &c., upon condition of rendering faithful service in future. It can neither declare one who actually is a deserter not to be one, nor can it have such force in law as to remit penalties of forfeiture of pay, &c., which are imposed by law. This penalty has already had effect; the forfeiture has worked, the money has reverted to the Treasury, and only an act of Congress can again appropriate it to a specific purpose.

The act lately passed allowing arrearage of pensions has brought up a very large number of *new* cases; men who thought it hardly worth while to claim a pension of perhaps only a dollar or two a month, finding themselves entitled to two or three hundred dollars in hand, if their pension is allowed, are pressing their claims. This develops so many new appeals to remove the charge of desertion, and after the lapse of fifteen years or more it is exceedingly difficult to judge of the reliability of affidavits given from memory or upon conjecture. It would seem that the law should fix a limit of time beyond which no application of this kind should be considered. If a man does not find out that he is recorded a deserter within five years, say, of the date of his leaving the service, it should not be incumbent upon the government to free him from the charge, unless the comparison of one record with another made at the time should show the charge to be erroneous.

Legislation on this subject has several times been considered by committees of Congress, but none has as yet been had. In my judgment, any other general legislation than that as to limitation, above alluded to, would be rather in the interest of fraudulent claims than justice to proper claimants. The War Department has ample power now "to do equal and exact justice to every applicant for such relief." There are a few cases of one class in which the action of Congress would be beneficent and not injurious to military discipline as an example or precedent. When a soldier, having become disabled by wounds from any future service, leaves a hospital without permission, and is reported a deserter, the charge is technically true; but the rule which would oblige the man to stay in hospital until freed by regular discharge is made in the interest of humanity, and to enable the government to fulfill its contract to nurse and heal its sick and wounded. That the man has become weary of restraint and longs for his home is no great offense under such circumstances. It is thought, however, that such rare instances would be better met by special acts for the benefit of individuals, since a general law could not be framed that would discriminate between cases of actual merit and of malingering. It would be difficult to frame a law that would not place many men actually at fault upon the same footing with those whose *unblemished* service it was intended to reward by bounties and pensions.

Annexed are copies of the laws and regulations which have been enacted and promulgated. This report details the action taken by this department. There is also an extract herewith from the report of the late Provost-Marshal-General upon the estimated number of deserters from the Army.

About eight hundred applications were received in this office for correction of rec-

ord from January 1 to July 1, 1879. In about sixty of these the action has been favorable.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

Hon. F. M. COCKRELL,
United States Senate.

NOTES.

See articles 20, 21, and 22 (now 47, 48, 49, and 50) of the Articles of War, defining the crime of desertion and prescribing the punishment therefor. (Sec. 1342, Revised Statutes, 1878.)

Deserters at large after May 11, 1865, forfeit citizenship. (Sec. 1996, Revised Statutes, 1878.)

Citizenship not forfeited if men served faithfully until April 19, 1865. (Sec. 1997, Revised Statutes, 1878.

In the act approved March 3, 1865, to amend the several acts relating to the volunteer forces, the subject-matter of desertion appears to have first received Congressional action, viz:

"SEC. 21. *And be it further enacted*, That, in addition to the other lawful penalties of the crime of desertion from the military or naval service, all persons who have deserted the military or naval service of the United States, who shall not return to said service, or report themselves to a provost-marshal, within sixty days after the proclamation hereinafter mentioned, shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship and their rights to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizens thereof; and all persons who shall hereafter desert the military or naval service, and all persons who, being duly enrolled, shall depart the jurisdiction of the district in which he is enrolled, or go beyond the limits of the United States, with intent to avoid any draft into the military or naval service, duly ordered, shall be liable to the penalties of this section. And the President is hereby authorized and required forthwith, on the passage of this act, to issue his proclamation setting forth the provisions of this section, in which proclamation the President is requested to notify all deserters returning within sixty days as aforesaid that they shall be pardoned on condition of returning to their regiments and companies, or to such other organizations as they may be assigned to, until they shall have served for a period of time equal to their original term of enlistment."

In compliance with which, the President, on March 11, 1865, issued the following proclamation:

[General Orders No. 35.]

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, March 11, 1865.

By the President of the United States of America.

A PROCLAMATION.

Whereas the twenty-first section of the act of Congress, approved on the third instant, entitled "An act to amend the several acts heretofore passed to provide for the enrolling and calling out the national forces, and for other purposes," requires "that, in addition to the other lawful penalties of the crime of desertion from the military and naval service, all persons who have deserted the military or naval service of the United States who shall not return to said service, or report themselves to a provost-marshal within sixty days after the proclamation hereinafter mentioned, shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship and their rights to become citizens, and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizens thereof; and all persons who shall hereafter desert the military or naval service, and all persons who, being duly enrolled, shall depart the jurisdiction of the district in which he is enrolled, or go beyond the limits of the United States with intent to avoid any draft into the military or naval service, duly ordered, shall be liable to the penalties of this section. And the President is hereby authorized and required forthwith, on the passage of this act, to issue his proclamation setting forth the provisions of this section, in which proclamation the President is requested to notify all deserters returning *within sixty days* as aforesaid, that they shall be par-

doned on condition of returning to their regiments and companies, or to such other organizations as they may be assigned to, until they shall have served for a period of time equal to their original term of enlistment."

Now, therefore, be it known that I, Abraham Lincoln, President of the United States, do issue this my proclamation, as required by said act, ordering and requiring all deserters to return to their proper posts; and I do hereby notify them that all deserters who shall, within sixty days from the date of this proclamation, viz, on or before the 10th day of May, 1865, return to service, or report themselves to a provost-marshal, shall be pardoned, on condition that they return to their regiments and companies, or to such other organizations as they may be assigned to, and serve the remainder of their original terms of enlistment, and, in addition thereto, a period equal to the time lost by desertion.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this eleventh day of March, in the year of our Lord one thousand eight hundred and sixty-five, and of the Independence of the United States the eighty-ninth.

[L. S.] ABRAHAM LINCOLN.

By the President:

WILLIAM H. SEWARD,
Secretary of State.

By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant-General.

On September 11, 1865, the Provost-Marshal-General (General Fry) reported to the Secretary of War that—

"Two hundred and sixty thousand three hundred and thirty-nine (260,339) men have been reported to this office as deserters from the Army. I estimate that twenty-five per cent. of these are not deserters in fact, but are men who became absentees unintentionally or unavoidably, and afterwards returned to duty. Adopting this estimate, the total number of desertions appears to be 195,255 from the ranks of the Army; 76,253 deserters have been arrested by this bureau.

"Only 1,755 deserters surrendered themselves under the President's proclamation of March 11, 1865, offering pardon to all who would return to duty. There are, therefore, still at large 117,247 deserters from the ranks of the Army. This number does not include the non-reporting drafted men, who are deemed deserters by the law. Of this class there are, by the reports, 161,286. It may be estimated that thirty per cent. of these are excusable, some having entered the service after having been drafted, others were absent at sea, and for various other causes the absence of many was unavoidable and excusable. Making the reduction of thirty per cent., gives 112,901 as the number of non-reporting drafted men who are deemed deserters, which, added to the number of deserters from the ranks, makes the total number of deserters still at large 230,148."

With a view to the proper disposition of all deserters at large, the following instructions were issued from this office:

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., September 22, 1865.

SIR: The following instructions (compiled from existing regulations, etc.,) relative to the proper disposition to be made of deserters from the military service of the United States, are furnished for your information and guidance:

Men against whom a charge of desertion is pending may be divided into classes, as follows:

I.—Men belonging to regular regiments who (the men themselves) are in the hands of the military authorities.

II.—Men belonging to regular regiments who (the men themselves) are at large.

III.—Men belonging to volunteer regiments out of service, who (the men themselves) are in the hands of the military authorities, and who have received a discharge paper, honorable or otherwise.

IV.—Men belonging to volunteer regiments out of service, who (the men themselves) are in the hands of the military authorities, who have received no discharge paper.

Under this class will be found:

a. Men who are actual deserters.
b. Men who are merely absent without leave.
c. Men whose absence was excusable.
d. Men the circumstances of whose cases cannot be officially ascertained.

belonging to volunteer regiments out of service, or unassigned drafted men, , &c., who (the men themselves) are at large.
ı belonging to volunteer regiments still in service, who (the men themselves) een discharged.
nerated in the classes above will be disposed of as follows:

CLASS I.

ıis class will be disposed of according to existing regulations for trial, res- duty without trial, &c.

CLASS II.

ıis class will, upon arrest or surrender at any post other than the station of y or detachment to which they belonged, be promptly reported by the com- ficer of such post to the commander of their company or detachment. The ertion, apprehension, and delivery, will be stated. If the man be a recruit, , the report will be made to the Adjutant-General United States Army. will be disposed of by trial, &c., in the usual way. The regulations provide thirty dollars for the arrest of deserters, which is still in force for the Reg- ɔnly.—See Article XVIII, Regulations of 1863, revised by General Orders m this office, series of 1863, &c.)

CLASS III.

his class should be released, if in arrest, and their cases, with all the infor- t can be obtained in relation thereto, forwarded to the Adjutant-General tes Army for settlement.

CLASS IV.

ı of men of this class should be acted upon (by the authority competent to nd disposed of by removing charges of desertion, by trial, &c., or by rec- ɔn to the Adjutant-General United States Army for dishonorable discharge, ıy or allowances, as the authority competent to order trial may see fit. ructions were subsequently modified so as to forbid the use of the words ɔle discharge, with loss of all pay and allowances," and substituting there- rds "discharged by reason of desertion"; and still later the "authority ɔ try them" (Department Commanders) were relieved from the investiga- ı cases and that duty assumed by the Adjutant-General.)

CLASS V.

will be taken to arrest men of this class at large, and no terms will be made while at large.
untarily placing themselves under military authority they will be disposed ɔ instructions for similar cases enumerated in Class IV. No reward will be ir apprehension.

CLASS VI.

ıis class may be arrested and sent to their regiments for trial, &c.
d will be paid for their arrest. The expenses only of officers and soldiers, y orders of competent authority to apprehend them, are paid as provided ɔns.
respectfully, your obedient servant,

E. D. TOWNSEND,
Assistant Adjutant-General.

ɔrohibiting the removal of a charge of desertion, in fact, is embraced in tion approved March 1, 1870.—(Public, No. 13.)

'ION to pass to the credit of the National Asylum for Disabled Volunteer Soldiers the funds belonging to it for the relief of sick and wounded soldiers.

y the Senate and House of Representatives of the United States of America in embled, That the unexpended balance of the fund created by the seven-

teenth section of the act approved February twenty-fourth, eighteen hundred and sixty-four, for the benefit of the sick and wounded soldiers, shall be transferred to the National Asylum for Disabled Volunteer Soldiers for the support of its beneficiaries.

SEC. 2. *And be it further resolved*, That the moneys withheld because of the desertion of any person from the volunteer forces of the United States, who is borne on the rolls as a deserter, shall not be paid to him, except the record of desertion shall have been canceled *on the sole ground that such record has been made erroneously and contrary to the facts*, but such moneys shall be and remain the property of the National Asylum for Disabled Volunteer Soldiers for the support of its beneficiaries.

Approved March 1, 1870.

Although, by subsequent legislation, the moneys withheld on account of desertions were diverted from the National Asylum and covered into the Treasury,

[Legislative, executive, and judicial appropriation bill, approved March 3, 1875.

* * * * * * *

WAR DEPARTMENT.

* * * * * * *

That so much of the act entitled "An act to incorporate a National Military and Naval Asylum for the relief of totally disabled officers and men of the volunteer forces of the United States," approved March third, eighteen hundred and sixty-five, and of all acts amendatory thereof, as provides "that for the establishment and support of said asylum there shall be appropriated all stoppages or fines adjudged against officers and soldiers by sentence of court-martial or military commission, over and above the amounts necessary for the re-imbursement of the Government or of individuals; *all forfeitures on account of desertion from the service;* and all moneys due deceased officers and soldiers which now are or may be unclaimed for three years after the death of such officers and soldiers," be, and the same *is hereby, repealed*, to take effect on and after the first day of April, eighteen hundred and seventy-five. And from and after April first, eighteen hundred and seventy-five, no clerk shall be employed or paid in any department of the government for services rendered under any provision of said act of March third, eighteen hundred and sixty-five, or the acts amendatory thereof. And from and after the first day of April, eighteen hundred and seventy-five, no money shall be appropriated or drawn for the support and maintenance of what is now designated by law as the "National Home for Disabled Volunteer Soldiers," except by direct and specific annual appropriations by law.]

* * * * * * *

it will be observed that the disabling clause has not been repealed.

Your committee also addressed a letter of inquiry to the Second Auditor, and received the following reply, to wit:

TREASURY DEPARTMENT,
SECOND AUDITOR'S OFFICE,
Washington, D. C., January 2, 1880.

SIR: In reply to your letter of the 23d ultimo, requesting certain information in view of applications made to Congress in behalf of men who have been in the military service for honorable discharges, and for the removal of charges of desertion, I have the honor to state:

First. That pay may be allowed a soldier dishonorably discharged, but not bounty.

Second. If a soldier is borne on the rolls simply as "absent without leave," pay for the time thus absent is not allowed, but bounty may be; the period of such absence, however, being always taken into consideration.

Third. The full military record of the soldier is always called for from the Adjutant-General, United States Army.

I am unable to state, even approximately, as to the number of soldiers who are borne on their company rolls as deserters, or absent without leave.

Very respectfully,

E. B. FRENCH, *Auditor.*

Hon. F. M. COCKRELL, *United States Senate.*

Your committee also addressed a letter of inquiry to the Commissioner of Pensions, and received the following reply:

DEPARTMENT OF THE INTERIOR,
PENSION OFFICE,
Washington, D. C., January 23, 1880.

SIR: In reply to your letter of December 23, 1879, on the question of desertion affecting the right to pension, I have the honor to inform you as follows:

Prior to the act of Congress approved July 14, 1862, giving right to pension, provided that the soldier or sailor should first receive an honorable discharge from the service. These statutes refer to the cause of pension originating in the service *prior* to March 4, 1861, and are still operative as affecting that class of persons who may claim pension.

The act of July 14, 1862, the first making provisions for pensions on account of disability contracted or death from a cause originating in the service, provided that the same must have ensued *since* March 4, 1861, to entitle to its benefits.

This act and all subsequent thereto regulating pensions make no reference to the crime of desertion, nor do they require that an honorable discharge must be first obtained to entitle the claimant to the provisions of the same.

It is held by the Pension Office that a dishonorable discharge is no bar to the right to pension, provided the cause on account of which the same may be claimed orginated while the soldier or sailor was in the line of his duty as such.

The statute fixing the date of commencement of pensions would in its operations complicate the matter in certain cases; *e. g.*, where the pension, if allowed, would commence from the date of the discharge of the soldier from the service, and he had failed to receive *any* discharge therefrom, there would be no legal date from which said pension could be made to commence, it being held that the soldier, if a deserter, is liable to be apprehended at any time and returned to service.

It has been a practice in this office in those claims filed more than five years from the date of the discharge of his company, and the claimant failed to receive a discharge on account of his desertion, to allow the same, and for this reason: The statutes (section 4709, R. S.) provide that where a claim is filed more than five years from the date the right to pension accrued, the same should, if allowed, commence from the date of completion of the same, regarding the date of the muster-out of the company as the latest from which the right to pension accrued.

I find that the practice has varied somewhat in the several years which have elapsed since the late war; but since the year 1874 it has become settled and uniform, and may be stated in brief as follows:

Dishonorable discharge is no bar to the right to pension, and a discharge of this character carries with it all the rights conferred by the pension laws as though an honorable discharge had been granted, except in such cases where the cause for pension originated in the service *prior* to March 4, 1861.

As the limitation imposed by section 4709, R. S., was repealed by the act of January 25, 1879, pension, if allowed in the case of a soldier or sailor for a cause originating in the service *since* March 4, 1861, is made to commence from the date of discharge from the service.

As this revives a question of construction of law and ruling, which the office has not been called upon to determine (except in rare instances) for the past ten years, i. e., where the soldier has failed to receive *any* discharge from the service, I am not at present prepared to state my views definitely on this point.

In these exceptional instances where the question has been interposed, it has been the practice to refer the claimant to the Adjutant-General of the Army, with a view to the completion of his military record, and obtain from that officer such a discharge as he might decide he was entitled to receive.

I do not remember any case in which the Adjutant-General has refused to grant a discharge, either an honorable or dishonorable one, and in what may have been to him exceptional cases, he has frequently furnished such a discharge as terminated the claimant's service, expressing the fact of desertion, and that the same was for the sole use of the Commissioner of Pensions, and its issuance carried with it no remission of the penalties and forfeitures which might follow the act of desertion.

I am unable to say what rule obtains with the Adjutant-General in regard to such discharges, but it has answered the purposes of this office, enabling it to complete such claims where such action was necessary.

Referring to other questions which are in part answered in the foregoing, I may add in reply that absence without leave is not an element of consideration in a pension claim, except where a disability was incurred during such unauthorized absence.

Any legislation by Congress directing the Secretary of War to amend or change the military record of a soldier, so far as such change may relate to the pension of such soldier, is regarded by the Commissioner of Pensions as mandatory in his action.

It is suggested in the view you express relative to the large number of applications before your committee relative to desertion, that the right to bounty is the principal object, while others may be prompted by their rights to citizenship which is involved in desertion.

The present Rules and Articles of War touching "desertion" are as follows, to wit:

ART. 47. Any officer or soldier, who, having received pay, or having been duly enlisted in the service of the United States, deserts the same, shall, in time of war, suffer death, or such other punishment as a court-martial may direct; and, in time of peace, any punishment, excepting death, which a court-martial may direct.

ART. 48. Every soldier who deserts the service of the United States shall be liable to serve for such period as shall, with the time he may have served previous to his desertion, amount to the full term of his enlistment; and such soldier shall be tried by a court-martial and punished, although the term of his enlistment may have elapsed previous to his being apprehended and tried.

ART. 51. Any officer or soldier who advises or persuades any other officer or soldier to desert the service of the United States, shall, in time of war, suffer death, or such other punishment as a court-martial may direct; and in time of peace, any punishment, excepting death, which a court-martial may direct.

By the act of April 10, 1806, it is provided—

That any commissioned or non-commissioned officer, musician, soldier, marine or seaman disabled in the actual service of the United States while in the line of duty by known wounds received during the revolutionary war, and *who did not desert the service*, * * * shall be placed on the pension-list of the United States, &c.

By the act of December 24, 1811, a land-warrant for 160 acres of land was granted to—

Any non-commissioned officer or soldier discharged from the service *who shall have obtained from the commanding officer of his company, battalion, or regiment, a certificate that he had faithfully performed his duty while in the service.* * * *

The same provision is enacted in the act of January 11, 1812.

By section 4 of the act of December 10, 1814, 320 acres of land were granted to those who had received the same kind of a certificate as provided for in the two preceding acts.

By the act of April 16, 1816, lands to the amount of 160 acres and 320 acres, according to term of service, were granted to soldiers "*who have faithfully served during the late war and have been regularly discharged.*"

What are the present disabilities of deserters? The following provisions are in the Revised Statutes:

SEC. 1992. All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States.

* * * * * * *

SEC. 1996. All persons who deserted the military or naval service of the United States and did not return thereto or report themselves to a provost-marshal within sixty days after the issuance of the proclamation of the President, dated the 11th day of March, 1865, are deemed to have voluntarily relinquished and forfeited their rights of citizenship, as well as their right to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizens thereof.

SEC. 1997. No soldier or sailor, however, who faithfully served according to his enlistment until the 19th day of April, 1865, and who, without proper authority or leave first obtained, quit his command, or refused to serve after that date, shall be held to be a deserter from the Army or Navy; but this section shall be construed solely as to removal of any disability such soldier or sailor may have incurred, under the preceding section, by the loss of citizenship and of the right to hold office, in consequence of his desertion.

SEC. 1998. Every person who hereafter deserts the military or naval service of the United States, or who, being duly enrolled, departs the jurisdiction of the district in which he is enrolled, or goes beyond the limits of the United States, with intent to avoid any draft into the military or naval service, lawfully ordered, shall be liable to all the penalties and forfeitures of section nineteen hundred and ninety-six.

Section 1996 was enacted March 3, 1865, and section 1998 was enacted at same time, and section 1997 was enacted July 19, 1867.

The petitioners in this case come under the provisions of section 1997 and have not therefore forfeited their citizenship or right to hold office

ion 2438 of the Revised Statutes is as follows:

438. No person who has been in the military service of the United States shall ase, receive a bounty-land warrant, if it appears by the muster-rolls of his regi- corps that he deserted or was dishonorably discharged from service.

ted in 1850 and incorporated in Revised Statutes.

ion 4749, under Title of Pensions, of the Revised Statutes, is as :

749. No soldier or sailor shall be taken or held to be a deserter from the Army who faithfully served according to his enlistment until the nineteenth day of ighteen hundred and sixty-five, and who, without proper authority or leave ained, quit his command or refused to serve after that date; but nothing herein d shall operate as a remission of any forfeiture incurred by any such soldier or his pension; but this section shall be construed solely as a removal of any dis- uch soldier or sailor may have incurred by the loss of his citizenship in conse- of his desertion.

he provisions of section 1996 all deserters prior to March 3, 1865, id not return or report to a provost-marshal within sixty days larch 11, 1865, have forfeited their citizenship and right to hold nder the United States. All deserters who served faithfully ac- g to enlistment until April 19, 1865, and thereafter quit their com- or refused to serve after that date, have been relieved from the re of citizenship and right to hold office.

eserter can receive a bounty-land warrant.

rtion *ipso facto* forfeits to the United States all pay and allow- lue at date of desertion and all accruing during unauthorized e.

Second Auditor holds that a deserter forfeits bounty, and is not l to it, but having a dishonorable discharge may be allowed his

Second Comptroller has decided that—

lier who has violated his contract with the government by committing the desertion, during the time for which he enlisted or was drafted, has no legal the pay due at the time of desertion or to bounty.

norable discharge is held to be a condition precedent to the payment of bounty, er this ruling a deserter, though pardoned, is not entitled to bounty.

ier having been a deserter during the period of his enlistment is not entitled y.

Judge-Advocate-General has decided that—

rter, *by operation of law* and whether or not tried or sentenced, becomes liable eiture of all pay remaining due at the date of his desertion, as well as that for the period of his unauthorized absence.

Judge-Advocate-General differs with the Second Auditor and Comptroller as to the forfeiture of bounty by desertion, and uses guage:

desertion does not *per se* affect the right of a soldier to an honorable dis- r to bounty; that if there has been nothing in his sentence or punishment as by court-martial which necessarily subjects him to a dishonorable discharge, he d to an honorable discharge; and if he has served two years, to bounty.

that—

pinion is not intended to embrace the special cases of deserters whose rights nship are expressly forfeited by the act of March 3, 1865.

ithstanding the provisions of section 4749 of the Revised Statutes, quoted the Commissioner of Pensions allows pensions to desert- all dishonorably discharged, as a general rule—where they comply e requirements of the pension laws in other respects. And that

section does not therefore operate as a forfeiture of right to pension, as construed by the Pension Office.

Your committee have made the quotations and references herein set forth to show what has been the policy of the government toward deserters, and the existing laws and practice touching cases of desertion, and the disabilities, penalties, &c., heretofore imposed upon deserters and now existing by law, and the practice of the departments. Your committee believe that the policy of the government should now be in consonance with what it has been for a century, and that it has been and now is sufficiently lenient and humane.

A distinction must be made, as it always has been, between those soldiers who serve faithfully their term of service according to enlistment and obey the orders of their superiors and those who set themselves up as the arbiters and judges of what the laws and orders may be and ought to be, and who quit their commands in violation of law and orders, refuse to serve any longer, decide for themselves that they are no longer bound, and without proper authority, or any authority whatever, or leave first had, and without any discharge, go home without any intention of rejoining their command, and thus clearly become guilty of the heinous offense of desertion; thus "*wilfully absenting themselves without leave, with the intent, the animus, not to return.*"

Your committee believe that the departments, under existing laws and their rules and practices, are fully empowered to do justice in almost all cases where the charges of desertion appear on the military "records."

These petitioners knew what was due them, and that all these dues would be forfeited by their desertion. They made their voluntary choice, and they must now abide the legitimate results of their own willful acts. Your committee therefore recommend that said bill be indefinitely postponed.

In view of the very large number of cases where the charges of desertion exist on the records, and the numerous cases coming before Congress for special legislation, your committee deem it proper to express their conviction that special legislation is neither proper nor wise; and that, as a general rule, the War Department now has ample power to do equal and exact justice to every such applicant for relief; and that no special legislation will be recommended, except in special and exceptional cases, where soldiers, by reason of sickness or wounds, have been absent from their commands, and by reason of such absence have been reported as deserters

C

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 202.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1880.—Ordered to be printed.

r. RANDOLPH, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 2902.]

e Committee on Military Affairs, to whom was referred the bill (H. R. 2902) to place William Gaines, late ordnance sergeant, United States Army, on the retired list, beg leave to report as follows:

The act provides for placing William Gaines on the retired list of e Army, with the full pay and allowances of an ordnance sergeant, and during his natural life, for the reason that the said Gaines has ved, faithfully and honorably, more than fifty-one years in the Army of e United States, having been ordnance sergeant over thirty-three con-utive years of said service.

As the facts in the case are clearly set forth in the report of the Mili-y Committee of the House for the present session of Congress, the ort is adopted, which reads as follows:

William Gaines was born in Frederick City, Md., in 1799, and when a mere boy re-ved to the State of Kentucky. When twelve years of age he was present with his le at the battle of Tippecanoe, and in 1812, when but thirteen years of age, he en-ed as a drummer-boy in Captain Armstrong's company of the Twenty-fourth In-ntry, at Knoxville, Tenn. After serving against the Creek Indians, he marched th his company through the States of Kentucky and Ohio; was engaged in the de-ase of Forts Meigs and Stephenson in July and August, 1813, and took part in the ttle of the Thames, October 5, 1813. After the declaration of peace he was engaged recruiting service in the city of New York, and on the 23d of November, 1816, re-listed in the Army. His record in the Adjutant-General's Office commences from that ate, and it shows that he served continuously until his final discharge in 1866, a pe-od of over fifty-one years. For over thirty-three years he served as an ordnance ser-eant, holding that rank at the date of his discharge. He is now an occupant of the ldiers' Home, near this city, and he is believed to be the only survivor of the gal-nt defenders of Fort Stephenson, under Colonel Croghan.

In March, 1879, an act was approved placing Lewis Leffman, ordnance sergeant, on e retired list, with full pay and allowances after forty years' continuous service as ch ordnance sergeant, and fifty-three years' service in the Army; and in view of this recedent, as well as the long and fathful services of Sergeant Gaines, your committee commend the passage of the bill.

O

H CONGRESS, 2d Session. } SENATE. { REPORT No. 203.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1880.—Ordered to be printed.

RANDOLPH, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. Res. 3.]

e Committee on Military Affairs, to whom was referred the resolution S. Res. 3) to authorize the Secretary of War to sell or lease to the Port Huron and Northwestern Railway Company a portion of the Fort Gratiot military reserve, and to authorize the city of Port Huron to grant the said railway company the right of way through Pine Grove Park, have had the same under consideration, and submit the following report:

The Secretary of War, in a letter dated February 21, 1878, relating this bill, transmits a report on the matter made by Col. O. M. Poe, ited States Engineers. The letter of the Secretary of War, embracing lonel Poe's report, is as follows:

WAR DEPARTMENT,
Washington City, February 24, 1878.

IR: I have the honor to acknowledge the receipt of your letter of this date inclosing ate Resolution 68, "to authorize the Secretary of War to sell or lease to the Port on and Northwestern Railway Company a portion of the Fort Gratiot military rve, and to authorize the city of Port Huron to grant to said railway company the it of way through Pine Grove Park," with request that the Committee on Mili- Affairs be informed at an early day respecting the same.

ol. O. M. Poe, United States Engineers, to whom the matter was referred, reports ollows:

In my opinion, the right of way might be granted as proposed, upon a lease ter- able at the pleasure of the United States authorities.

If a sale be made, it should not be limited to a mere strip of 100 feet in width, after ing to the southward of the Grand Trunk Railroad, but should include the entire bounded by Stone street, Thomas street, and the grounds of the Grand Trunk lroad Company, for the reason that the occupation of the strip proposed will seri- y impair the value of the remainder of the ground included within these ndaries, a fact made apparent by a glance at the map. To this the Port Huron Northwestern Railway Company cannot reasonably object, for the ground is able, and any improvement of its value should be borne by the railway company."

he report of Colonel Poe is concurred in by this department.

Very respectfully, your obedient servant,

GEO. W. McCRARY,
Secretary of War.

HAIRMAN COMMITTEE ON MILITARY AFFAIRS,
United States Senate.

The committee recommend the passage of the bill.

O

TH CONGRESS, 2d Session. | SENATE. | REPORT No. 204.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1880.—Ordered to be printed.

. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1205.]

e Committee on Military Affairs, to whom was referred the letter of the Secretary of War, dated January 5, instant, being Executive Document Vo. 25, Forty-sixth Congress, second session, respectfully submit the following report:

Said letter is as follows:

WAR DEPARTMENT,
Washington City, January 5, 1880.

he Secretary of War has the honor to recommend to the United States Senate such islation as will provide for the acquisition by the United States of the title to the ds upon which Fort Stockton, Texas, is situated, and to present, for consideration, following facts:

amp (now Fort) Stockton was occupied by Company H, First Infantry, in conity with Special Orders No. 20, Headquarters Department of Texas, dated San onio, March 23, 1859, said company relieving detachments of the First and Eighth ntry, which were ordered to same place by Special Orders No. 5, Department of as, dated January 8, 1859. The post was occupied by United States troops until il or May, 1861, when it was abandoned. It was reoccupied July 7, 1867, and has ained in the possession of the United States troops to the present date. The ndaries and limits of the post were duly announced in Special Orders No. 96, Detment of Texas, dated May 15, 1871.

nder date of May 20, 1874, the then Secretary of War transmitted to the House of resentatives copies of reports of a board of officers constituted by Special Orders 156, of 1873, from this department, pursuant to the act approved March 3, 1873, itled "An act to provide for the purchase, by the Secretary of War, of land for the ted States, in the State of Texas, for the site of forts and military posts." Said rts (published in House of Representatives Ex. Doc. No. 282, Forty-third Con-s, first session) embraced a recommendation for the purchase of the land occupied Fort Stockton, which was stated to be owned by Peter Gallagher, of San Antonio, for which, in the opinion of the board, $12,000 was a reasonable price.

o action, however, was taken by Congress upon the subject.

y an act of the legislature of the State of Texas, dated February 13, 1854, supplerary to an act dated December 19, 1849, it is provided that "in all cases where the e of Texas may be the owner of the land which the United States may select and to acquire and occupy for any purposes specified in the first section of the act to ch this is supplemental [*i. e.*, for light-houses, forts, garrisons, military stations, azines, arsenals, dock-yards, &c.], it shall be lawful for the governor of this State ntract and agree for the sale thereof, and upon the payment thereof by the United es of the purchase-money into the treasury of the State, it shall be the duty of the missioner of the General Land Office, upon the order of the governor, to issue a nt to the United States in like manner as other patents are issued."

appears that when the post of Fort Stockton was first established, in 1859, and when it was reoccupied, in 1867, the land covered thereby was vacant and unapriated domain of the State of Texas, and, if such was its condition, the land was open to selection by the United States for the purpose of a military post, under et of 1854, above cited. It does not appear, however, that any measures were n to acquire title thereto as contemplated by that act.

In the case of the land occupied by Fort Quitman, the status of which case was the same as that of the case now in question, the Attorney-General, in October, 1870, decided, in effect, that inasmuch as the land was, at the time of its occupation by United States troops, public domain of the State of Texas, its occupation was, under the act of February 13, 1854 (above cited), a sufficient selection within the meaning of that act to withdraw the land from public entry, and that the United States acquired by its simple occupation an inchoate title which might be perfected at any time thereafter.

Under date of September 18, 1879, the subject was submitted by this department to the Attorney-General, with request for such legal action as might be practicable or desirable to secure the title of the United States to the land now in question. In his reply, dated December 2, 1879, the Attorney-General expresses the opinion that the only course which the circumstances of the case now call for is to proceed under the act of the legislature of Texas of 1854, already referred to, which course is necessary to obtain the title in any event, and that the result will show what obstacles, if any, exist to prevent the government from securing the title.

The importance of Fort Stockton as a military post, and the necessity for its maintenance, render it particularly desirable that the government should own the land upon which it is situated; but as no proceedings can be instituted for the condemnation of the land without authority of Congress, and as the purchase of land on account of the United States, except under a law authorizing such purchase, is expressly prohibited (Revised Statutes, section 3736), the subject is thus presented with earnest recommendation for such legislation as will enable the government to acquire title to the land in question. The chief quartermaster, Department of Texas, reports, under date of December 18, 1879, that the land contains about 1,000 acres, and that the price asked therefor is $18,000.

It is the intention of the department, however, to carry out the recommendation of the Attorney-General, and obtain title from the State of Texas, should Congress authorize the purchase of the land.

ALEX. RAMSEY,
Secretary of War.

The PRESIDENT
Of the United States Senate.

In order to ascertain the official survey made of the boundaries and limits of the post as shown by the foregoing letter to be embodied in Special Orders No. 96, May 15, 1871, from the headquarters Department of Texas, Mr. Maxey, of the committee having the said Ex. Doc. 25 in charge, addressed a letter to the Adjutant-General, who, under date of 31st instant, furnished official copy of said order, as follows:

[Extract.]

HEADQUARTERS DEPARTMENT OF TEXAS,
(TEXAS AND LOUISIANA,)
San Antonio, Tex., May 15, 1871.

[Special Orders No. 96.]

* * * The report of the board of officers convened at Fort Stockton, Texas, by paragraph 1, Special Order No. 60, series of 1870, having been duly considered, the following are established as the boundaries and limits of the post of Fort Stockton, Texas, viz:

The reservation as surveyed by Capt. Lewis C. Overman, Corps of Engineers, United States Army, in February, 1871, being one and one-half miles north and south by one mile east and west, taking the center of the present post parade ground for its center point, containing 960 acres, and embracing survey No. 151 and portions of surveys Nos. 150, 204, 215, and 216, as recorded in the general land office of the State of Texas; also the tract of land now used as a post garden, containing about twenty-five acres.

* * * * * * * *

By command of Col. J. J. Reynolds:

H. CLAY WOOD,
Assistant Adjutant-General.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, January 31, 1880.

Official.

R. C. DRUM,
Assistant Adjutant-General.

'acts are fully set out in the letter of the Secretary of War, from t is clear, in the opinion of the committee, that a bill to enable :retary of War to purchase said site ought to pass.

in the judgment of the committee, always wise to secure to the States the exclusive jurisdiction contemplated by the Constitution sec. 8, cl. 17) over its forts, magazines, arsenals, dock-yards, and ıeedful buildings. The general laws of Texas make ample pro- to meet the case.

rther appears that Fort Stockton is necessary to the common ;.

refore the committee report back said Ex. Doc. No. 25 with the ıanying bill, and recommend that it do pass,

O

TH CONGRESS, } SENATE. { REPORT
2d Session. } { No. 205.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1880.—Ordered to be printed.

HARRIS, from the Committee of Claims, submitted the following

REPORT:

[To accompany bill S. 532.]

Committee of Claims, to whom was referred Senate bill 532, accompa-ied by the petition and papers of Eliza Howard Powers, asking compen-ation for certain services alleged to have been rendered during the war, ubmit the following report:

n 1861, at the beginning of the war, petitioner was a citizen of erson, N. J., and the petition states "that from April 28, 1861, August 14, 1864, she devoted her whole time, energy, influence, and ans to the service and for the success of the Union cause; caring for sick and wounded soldiers, collecting and forwarding hospital sup-es and money for their relief, ministering to their wants, and reliev-their sufferings in camp, field, and hospital."

That during this period she acted as president of the Florence Night-gale Relief Association of Paterson, N. J.

With this petition there are a number of letters from officials of New sey and other respectable persons, which state that the petitioner s for three or four years during the war earnest, energetic, and active her attentions to the sick and wounded soldiers of the Federal Army, d in her efforts to raise, and that she did raise, by the voluntary con-bution of citizens $8,000 or $10,000 in money and many articles for e use of hospitals, &c., which she forwarded to the Army.

These facts are stated in letters recommending the petitioner for ap-intment, and as reasons why she should be appointed, to a clerkship some one of the departments of the government.

The petitioner was appointed to a clerkship in the dead-letter office the Post-Office Department, which position she held for about seven ars, when for some reason which does not appear in the papers, and to which the committee has not inquired, she was discharged.

After which, on the 16th March, 1876, this petition was presented in e Senate and referred to the Committee on Pensions, and on April 13, 76, the Committee on Pensions was discharged from further consider-ion and the petition referred to the Committee on Military Affairs; but report was made upon it. It was again presented in the Senate of e Forty-fifth Congress on the 14th May, 1878, and referred to the Com-ittee of Claims, and on the 4th of June, 1878, a verbal adverse report s made by the committee, and on the 14th June, 1878, the bill for the lief of this petitioner was indefinitely postponed, and without addi-nal testimony the bill under consideration was introduced in the Sen-

ate of the Forty-sixth Congress on 30th April, 1879, the papers withdrawn from the files and referred to your committee.

The services of the petitioner were patriotic and laudable, but such as many thousands of the ladies of the country performed, prompted by similar motives, and such as very few have demanded compensation for, and the government has not heretofore recognized as justifying a demand upon the Treasury.

The committee, therefore, recommend that the bill be indefinitely postponed.

O

ONGRESS, } SENATE. { REPORT
Session. } { No. 206.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1880.—Ordered to be printed.

THONY, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill S. 1206.]

mmittee on Naval Affairs, to whom was referred the petition of Thornley, medical director, United States Navy, praying for resto- n to his former position in the Navy, beg leave to report as follows:

Thornley was placed on the retired list June 1, 1861, a board of is having pronounced him unfit for active duty. It seems that mining board further declared that Mr. Thornley's disability was urred in his line of duty as medical director; and at that time ey was unable, through force of circumstances, to produce satis- evidence to the contrary. At a later period he succeeded in ng positive evidence, which had not previously been submitted, s disability *had* occurred in the line of duty, and asked to submit dence for consideration before a competent tribunal. Upon state- f the facts to Hon. R. W. Thompson, Secretary of the Navy, the was referred to the Chief of the Bureau of Medicine and Surgery. date of May 15, 1878, the Surgeon-General recommended that ornley's case be referred to the retiring board for readjustment. he 12th of November, 1878, a medical board was convened at the Department for further investigation and consideration of such entary evidence as might be produced by Dr. Thornley. After il consideration of all the evidence relating to the origin of the sability of Dr. Thornley, the board reached the conclusion that ability causing the retirement of Medical Director John Thornley *origin in the line of duty.*

report was approved by Secretary Thompson, and Dr. Thornley's as ordered on the records of the department from the 1st of Jan- 879.

Secretary of the Navy further says that, "having been retired nsufficient evidence as to the origin of his disability, he is of that Dr. Thornley's claim is just, and deserving of favorable f Congress."

nsideration of the above facts, the committee report favorably Thornley's petition.

H CONGRESS, 2d Session. } SENATE. { REPORT No. 207.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1880.—Ordered to be printed.

HEREFORD, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1208.]

Committee on Claims, to whom were referred the petition and papers in e case of William H. Davis, of California, have considered the same nd bring in the following as their report:

his case presents the following state of facts:
n 1852, the petitioner, who was then a wealthy citizen of Southern ifornia, erected on his property in New San Diego, in that State, a tain wharf and warehouse, of which the following is a description:
'he wharf was 550 feet in length and 50 feet in width, running out to epth of four fathoms of water, together with an "L" at its water-end, ng 225 feet in length and 140 feet in width; the whole constructed of -wood piles of from 30 to 75 feet in length and from 15 to 28 inches in meter, substantially driven into the soil at distances of 6 feet, covered verlaid with imported spruce and yellow-pine plank of from 12 to 15 hes wide by three inches thick, with another "L" addition at the re-end, 450 feet in length and similarly constructed.
'he warehouse was 50 feet in length, 32 feet in width, and two stories h, and constructed of heavy Eastern timbers and imported spruce l pine planks.
'his wharf and warehouse were at that time, and continued to be many years, and until the time of their destruction, the only struct- s of the kind in San Diego; and all the steamers and sailing-vessels pping at that port, unloaded and loaded thereat.
'he cost of the construction of this wharf and warehouse was $60,000.
property was kept in good condition down to the breaking out of war.
n the winter of 1861–'62, San Diego was occupied by United States ops. In the early part of the winter and until about the 1st of January, 2, the post was occupied by several companies of United States In- try, regulars, under command of Major Hallet, United States Army.
During the month of January, 1862, the post was commanded by t. Thomas Roberts, with Company E, First California Volunteer antry.
During the month of February he was relieved by Capt. William nch, with Company I, Fifth California Volunteer Cavalry.
t further appears that during these winter months occurred the viest rainfall ever experienced on that coast. One witness testifies t the average rainfall is *nine* inches, and that winter it was *thirty* nes. The result of these floods of rain was that the streams became

so swollen as to be entirely impassable, and the roads so miry and heavy as to be utterly impracticable for loaded wagons. Communication with the interior ceased, and, as a result of this, the troops at San Diego soon found themselves destitute of wood for fuel, or for any of the other purposes for which it is so necessary.

The property of Mr. Davis had been left in charge of his agent, George A. Pendleton, Davis being at that time absent from San Diego.

The wharf and warehouse lay conveniently near the post where the United States troops were encamped. It was a mine of fuel, at that time perhaps the most desirable commodity in San Diego; no other was obtainable within a distance of twenty miles. The condition of the country absolutely forbade even an attempt to procure it from the interior wooded country.

Under these circumstances, and driven by the necessity of providing themselves with the wherewithal to warm themselves and cook their food, the troops, by and with the advice and consent of their commanding officers, commenced to strip the wharf and warehouse of its valuable timbers. Daily a squad, provided with axes and crosscut-saws, went to the wharf. The planks were ripped up and the piles were sawed off to the water's edge, and the lumber thus obtained carted to camp. It was there used for "pig-pens, platforms, benches, water-tanks, and water-troughs." Wells were curbed with it, and it was used in the blacksmiths' shops; but the principal use to which it was put was as fuel. In this way it was consumed in the company's kitchen and bake-house and in the quarters of the officers.

This work of demolition and destruction went on until the entire structure was cleared away to the water's edge. During its progress the claimant's agent made frequent appeals to the officers in command, protesting against their allowing it to go on. Their answer was that they regretted that the severity of the season compelled them to this course, but they must have fuel, and saw no other way of obtaining it.

In 1868, another wharf and warehouse were built by another party, in the immediate vicinity of the claimant's property. These earned for their owner, during four years, until 1872, a gross income of $1,100 per month. The owner, in an affidavit filed with this claim, says he would not have risked his money in the enterprise had Davis's property been standing.

The testimony in support of this claim consists of a large number of affidavits of citizens and residents of California, most of whom, as well as the petitioner himself, are personally known to the Representatives and Senators from that State. The testimony of all of these witnesses shows substantially the state of facts above set out.

The long time that has elapsed since the claim accrued is explained by the petitioner that he was rendered absolutely penniless by the loss of this property, and was unable to get together the proofs of his claim until in 1872, when he first presented it to Congress; where it has been upon the files of the committees of either House without action, until last Congress, when it was reported favorably by the Claims Committee of the Senate and the War-Claims Committee of the House. It failed to be reached on the calendar of private business, however, and so has been re-referred in this Congress.

The committee are convinced from the testimony presented in this case, that the property was taken for the use of the United States troops, and that it was of great service to the soldiers and officers stationed at San Diego; that the condition of the country at the time and

scarcity of timber or other fuel furnished a sufficient excuse for the propriation of this property, and that the claimant is entitled to equi-le relief.

The committee are of the opinion that a fair compensation would be at the property was reasonably worth at the time of its appropria-n by the United States. It does not clearly appear what such reason-e value is from the testimony filed in the case; nor does your com-tee believe it would be quite safe to leave such a matter to be settled *ex parte* affidavits. They have thought it better to have the subject estigated by an officer of the government, who can do the work with least trouble and expense. As the Secretary of War can easily ail some officer on duty in the vicinity of San Diego to make the per inquiries, your committee have thought proper to refer the mat-to him.

They therefore recommend the passage of the accompanying bill.

O

TH CONGRESS, 2d Session. | SENATE. | REPORT No. 208.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1880.—Ordered to be printed.

. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

e Committee on Claims, to whom was referred the petition of Hannah Roche, have duly considered the same, and submit the following report:

The petitioner states that she is, and has been for many years, a resi-nt of Washington City, and is the widow of William Roche, deceased, d had a daughter named Ellen who was, in 1864, employed by the gov-nment in manufacturing cartridges at the arsenal in this city, whose ges were the chief dependence of petitioner for support, and that on ne 17, 1864, an explosion took place in said cartridge factory by which said Ellen and eighteen others were fatally injured. That on July 1864, Congress passed a joint resolution for the relief of the sufferers, d that the money appropriated was applied to the alleviation of the fferers; that the petitioner was thus deprived of the main-stay of her pport, and that now in consequence thereof, in her old age, she is re-ced to poverty and want. She prays that she may be allowed a pen-n or some specific sum of money which will, in part at least, compen-te her for her great loss. The petition is unaccompanied by any evi-nce whatever, and was presented to the Senate by Senator Ingalls, a mber of the Senate Committee on Pensions. It is therefore evident at it was not considered a proper case for the Committee on Pensions. e joint resolution of Congress referred to is as follows, to wit:

NT RESOLUTION for the relief of the sufferers by a late accident at the United States Arsenal, in Washington, D. C.

Whereas nearly thirty persons, mostly females, were terribly injured, nineteen of m fatally, by an explosion in the cartridge factory at the United States Arsenal in shington, D. C., on the seventeenth day of June, eighteen hundred and sixty-four; d whereas all of the wounded are poor and dependent upon daily labor for bread, o, by this calamity, have been deprived of the power to earn their living, and without the means to procure the care and comforts necessary to their recovery; herefore,

Be it resolved by the Senate and House of Representatives of the United States of America Congress assembled, That the sum of two thousand dollars be, and the same is reby, appropriated out of any money in the Treasury not otherwise appropriated, r the relief of the victims of such explosion, said money to be distributed under the rection of Major Benton, commanding at said arsenal, and in such manner as shall ost conduce to the comfort and relief of said sufferers, according to their necessities spectively, and that he report to this House.

Approved July 4, 1864.

In 1866 there was another explosion at said arsenal, and the follow-ng joint resolution was passed for the relief of the sufferers, to wit:

INT RESOLUTION for the relief of the sufferers by the late explosion at the United States arsenal, in the District of Columbia.

Whereas by the late explosion at the United States arsenal, in the District of lumbia, ten persons were killed who were not enlisted men, but were employés of

the government in said arsenal; and whereas those who were so killed left wives and children dependent upon them for support, most of whom are now in a destitute condition: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of twenty-five hundred dollars be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, and placed by the Secretary of the Treasury in the hands of Colonel Benton, commandant of said arsenal, to be distributed by him among the sufferers by the said explosion, according to the equity and necessities of their several cases, and that the said commandant report the details of said distribution to Congress, with the vouchers therefor.

Approved March 17, 1866.

The petitioner, according to her own statement, is an old lady in great want, who years ago had a daughter upon whom she was relying for support and comfort in her old age, and who was taken from her by the ruthless hand of death whilst she was in the employment of the government, which employment she doubtless sought voluntarily and accepted gladly. She now resides in the city of Washington and asks Congress to take money from the tax-payers of the whole country and appropriate the same for her maintenance and support. Is the government under any obligation, moral or legal, to take money from all the people and appropriate the same for her individual support? The only possible ground upon which any claim could be based in this case would be the fact that her daughter was in the employment of the government at the time of her death. Is the government, then, under any obligation whatever to support or contribute to the support of a father or mother whose son or daughter met death whilst in the employment of the government, and upon whose services and aid such father or mother hoped for support and comfort in their old age? So far as your committee know, the only cases in which the government has hitherto by legislation recognized any such claim have been those of soldiers and sailors. In these cases the services are extra hazardous, and may be voluntarily or compulsorily performed. The government under the Constitution and the laws has the authority and power to demand and enforce the services of its male citizens in the Army and Navy in time of war. The citizens can voluntarily accept to perform these services, and if they do not do so they can be enforced to perform them.

Under section 4707 of the Revised Statutes, if any person entitled to pension by sections 4692 and 4693 has died since March 4, 1861, or shall hereafter die by reason of any wound, injury, casualty or disease, which would have entitled him to an invalid pension, and has not left or shall not leave a widow or legitimate child, but has left or shall leave other relatives dependent upon him at the date of his death, such dependent relatives shall be entitled to receive the same pension such person would have been entitled to if totally disabled, in the following order of precedence: First, the mother; secondly, the father; thirdly, orphan brothers and sisters under sixteen years of age. This is as far as the wise and just policy of the government has ever recognized such claim. In all other services of the government which are voluntarily sought and performed for the remuneration, or the remuneration and the honor, and the performance of which the government cannot enforce, it has never been the policy of the government to recognize any claim on the part of such dependent relatives to any pension or bounty. The services to be performed and the compensation as the full equivalent of the services are prescribed by laws and regulations. The citizens voluntarily seek and accept of these places and perform the services for the compensation prescribed and whatever honor may attach thereto. There are thousands of such persons so in the employment of the government, and

e are other waiting thousands seeking and clamoring for the same es. The government has never held out any promise of pension, nty, or gratuity to such persons, but has offered the prescribed com- sation as the full equivalent and satisfaction therefor. There are, btless, hundreds of young men engaged in carrying the mails over Star routes of the country who are more or less exposed to death by wning in crossing swollen streams and by freezing in thinly populated tions, exposed to rigorous winters, and who have helpless, dependent ners or mothers who are relying upon the services of such sons their support in old age. To recognize any claim upon the part of h person or their dependent relatives to pensions or bounties from government would be directly contrary to the spirit and genius of institutions and form of government. Your committee deeply sym- thize with the petitioner, and recognize her as a fit subject for the ristian charities and humane provisions of the good people in whose dst she resides, and to them we commend her. Such burdens fall to the communities and neighborhoods throughout our broad land, and on the good people of each community devolves the care and provision such isolated cases as that of the petitioner. In the opinion of your mmittee, they should never receive Congressional aid by legislation. Your committee therefore report back this petition to the Senate, with recommendation that the prayer and claim of the petitioner be not owed, and that your committee be discharged from its further con- eration.

O

TH CONGRESS, 2d Session. | SENATE. | REPORT No. 209.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1880.—Ordered to be printed.

r. FERRY, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill S. 48.]

e Committee on Naval Affairs, to whom was referred the bill (S. 48) for promoting the efficiency of the corps of chaplains of the United States Navy, having had the same under consideration, submit the following report:

A similar bill to the one now under consideration passed the Senate the third session of the Forty-fifth Congress (S. 1446 of that session). The same bill, in terms, having thus been favorably considered in the enate, your committee accept the conclusions set forth in the report, o. 626, which then accompanied it, and which is herewith appended, nd do therefore recommend the passage of the bill.

Mr. McPherson, from the Committee on Naval Affairs, submitted the following report [to accompany bill S. 1446]:

The Committee on Naval Affairs, to whom was referred Senate bill No. 146, to promote the efficiency of the corps of chaplains of the United States Navy, after consideration thereof, beg leave to report back the same with a substitute therefor, and commend the passage of the latter.

SECTION 1.

The first sentence changes the limits of age at the time of appointment. The present limits are twenty-one and thirty-five years. It needs no argument to show that no an is fit for a position of so much responsibility unless he is at least twenty-five ars of age. The second sentence provides for reasonable limitations upon the apintment of chaplains. It is an exact rescript of the statute with reference to Army aplains. As amended, it cannot possibly be distorted into excluding any one on acunt of creed. It simply provides that any man who is appointed to the position ust be of good standing and reputation among his own people. The requirement of least one year's previous experience will commend itself to the judgment of all.

SECTION 2.

The first part of this section introduces no innovation and provides no new rank. simply corrects an error in the act of March 3, 1871. Previously to that all chapins entered the service with the relative rank of lieutenant-commander, and, after elve years of service, were promoted to the relative rank of commander—the highrank then held in the staff of the Navy. The act of March 3, 1871, provided higher nk for the staff, and, without their solicitation, four chaplains were granted the relive rank of captain. Seven were also ranked as commanders, but the next lower ade was limited to seven, making the total number granted relative rank only ghteen, while the statutes allow twenty-four chaplains. Thus six chaplains were tirely unprovided for, and have for nearly eight years occupied an entirely anomais position, causing great inconvenience to themselves and great trouble to the

Navy Department. The circumstances which make relative rank necessary fo eighteen who have it, make it equally necessary for the six who do not have it. C lains have no desire for rank at all, *per se*, but, in a military organization, the thou and one questions of precedence can be settled in no other way.

The second part of this section is inserted to insure a just proportion of sea-du each one. The relative rank of captain carries with it the privilege of contin shore duty, and no one ought to have that unless he has done his share of disagre duty. If any chaplain does not wish to go to sea, let him find a work that suit better.

SECTION 3.

This section increases the pay of chaplains, placing them on an equality, in th spect, with surgeons or paymasters, and chief engineers. No professional man c expected to leave civil life and subject himself to long absences from his family u he has the inducement of such preferment and increased pay as his talents and stantly enlarging experience would give him in civil life. This is recognized in corps except that of chaplains. All other staff officers, after certain grades, have pay increased up to fifteen and twenty years of service. Chaplains have now one increase, at the end of five years, so that a chaplain who has served *five* year as much pay as one who has served *forty* years. The natural tendency of this drive out the men we need to keep, and keep men we could well spare. Such has the *fact*, except in the case of a few worthy men who have remained from cons tious principles. Of the twenty-four chaplains now in the service, only *two* served sixteen years, and fifteen have not served ten years. This shows a rapidi change which is not healthy. Other things being equal, the longer a man is i service the more efficient he can be, especially in dealing religiously with sailors, form a class so distinctly *sui generis*. Chaplains simply ask to be put on the footing with officers whose equals they are expected to be in every respect, and whom they share equally all expenses, including heavy mess bills and fees for o entertainments, which last are provided for in other navies at the national exp Chaplains have the entire charge of the religious and *educational* instruction o and boys, including the hundreds of apprentices under the new system. They no subordinates or clerks to assist them as other officers have. Abundant testi can be brought to the fact that no other officer can be so efficient in securing co good order, and good discipline among the men. The question then comes do this: "How shall we secure an efficient worthy corps?" Only by making it an for good men to come in and *stay* in. If chaplains are to accomplish any good, i be evident that the power which creates them intends them to be respectabl respected.

SECTION 4.

As an offset to the increased expenditure involved in section 3, this amendme poses to reduce the number of chaplains to twenty. In the opinion of the C the Bureau of Navigation, and of the chaplains themselves, this can be done impairing the efficiency of the corps.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 210.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1880.—Ordered to be printed.

Mr. GROOME, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 950.]

The Committee on Pensions, to whom was referred the bill (S. 950) granting arrears of pension to Nancy Eubank, report:

That it is the purpose of said bill to secure to the widow of a Revolutionary soldier arrears of pension from the date of his death to the date when her name was first placed upon the pension-rolls.

The committee are of opinion that if relief is granted at all in cases like the one brought to their attention by this bill, it should be by a general act, and not by special acts. They therefore report the bill back unfavorably, and recommend its indefinite postponement.

CONGRESS, Session. } SENATE. { REPORT No. 211.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1880.—Ordered to be printed.

BROOME, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 497.]

Committee on Pensions, to whom was referred the bill (S. 497) granting pension to J. Clinton De Witt, having considered the same, report:

that inasmuch as section 4717 of the Revised Statutes, under which claim of the said De Witt for a pension was rejected by the Commissioner of Pensions, has since been repealed, and said claim can now be ned for further action in the office of said Commissioner, they ask the bill referred to them be indefinitely postponed.

NGRESS, } SENATE. { REPORT
ssion. } { No. 212.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1880.—Ordered to be printed.

ANDOLPH, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 2771.]

mmittee, to whom was referred the bill (H. R. 2771) entitled "An act nstrue 'An act granting condemned bronze cannon to the Soldiers' n of West Virginia,'" beg leave to submit the following report:

act provides that the Secretary of War be authorized to construe "granting condemned bronze cannon to the Soldiers' Union of Virginia," approved June 20, 1878, so as to furnish to the governor t Virginia, bronze condemned cannon, for the Soldiers' Union of ate, to inclose the monument of that union in the city of Wheeling. Secretary of War in a letter dated January 5, 1880, transmits a from the Chief of Ordnance. The Secretary says: "From this it will be seen that the bronze cannon already donated by Con- or monumental purposes is considerably in excess of the supply d, but that there are a number of condemned iron guns remain-

is letter, the Secretary adds: "As no more condemned bronze can be furnished by the Ordnance Department, it is respectfully ted that when bills are under consideration, it be noticed whether or iron guns are in requisition."

committee recommend the passage of the bill with an amendment ting the War Department to donate bronze cannon to the appli- hen such are to be had, hereafter, from the condemned stock.

O

NGRESS, } SENATE. { REPORT
sion. } { No. 213.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1880.—Ordered to be printed.

DONALD, from the Committee on the Judiciary, submitted the following

REPORT:

mmittee on the Judiciary, to whom was referred the petition of P. A. ord, praying the reference of his claim for captured cotton to the of Claims, with right of appeal to the Supreme Court of the United , report:

in the opinion of your committee, the prayer of the petitioner ot to be granted.

ommittee report adversely to the petition, and ask that the same finitely postponed.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 214.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1880.—Ordered to be printed.

Mr. GROOME, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of William C. Shimoneck, late a musician in the Third Regiment of United States Infantry, asking for an increase of pension, respectfully report:

That the examinations of the examining surgeons show that he is suffering from heart disease, and that they agree in rating his incapacity as three-fourths. As he is now receiving a pension at the rate of $6 a month, which is all he is entitled to receive under existing laws for a three-fourths disability, the committee return the petition to the Senate and ask to be discharged from its further consideration.

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 215.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

. FERRY, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill S. 533.]

e Committee on Naval Affairs, to whom was referred the bill (S. 533) for the relief of Charles W. Abbot, a pay director, and W. W. Barry, a passed assistant paymaster in the United States Navy, having had the same under consideration, respectfully report:

The facts of this case are set forth with considerable fullness in a port from the Committee on Naval Affairs of the House of Representives, March 3, 1879, at the third session of the Forty-fifth Congress, on which your committee quotes:

It appears that on the 19th of October, 1876, R. J. O'Reilly was appointed paymas-'s clerk by Paymaster W. W. Woodhull, then discharging the duties of paymaster the navy-yard, Boston, Mass., which appointment was approved by the command-t of the station. Since the above date O'Reilly continued to hold the position of ymaster's clerk, his duty being to assist the paymaster of the navy-yard at Boston, til the 25th of October, 1878, when, having been detected in a dishonest transaction, was suspended from duty, and a thorough examination disclosed the fact that he d embezzled of the government moneys $2,605.54. Prompt measures were taken to ect his arrest after his defalcation was ascertained, but he had absconded. On the h of July, 1878, Pay Director Charles W. Abbot was ordered to relieve Paymaster H. Swan at the Boston navy-yard. After taking charge of the pay-office, Pay rector Charles W. Abbot became suddenly ill, and on the 22d of July, 1878, was ieved by Passed Assistant Paymaster W. W. Barry. Again, on the 1st of October, 8, Pay Director Charles W. Abbot, having recovered his health, relieved Passed sistant Paymaster W. W. Barry. The fidelity, competency, and integrity of the rk, O'Reilly, having been vouched for by Paymaster Swan, who relieved Paymas- Woodhull, and had continued the clerk through his term of service, he was there-e retained by Passed Assistant Paymaster W. W. Barry and by Pay Director Charles . Abbot.

After the discovery of this deficiency in the cash, the fact was at once reported to commandant of the station, and an investigation requested by Pay Director arles W. Abbot. An official investigation was ordered by Commodore Spicer, and sequently a court of inquiry was ordered by the honorable Secretary of the Navy.

In response to a call from this committee, the Secretary of the Navy transmitted certain transcripts from the records of the Navy Department connected with this case, including the report of the court of inquiry referred to, which is as follows:

Findings of the court of inquiry.

t 12.30. p. m., there being no further testimony to offer on the part of the court or e-advocate, the court declared the testimony closed, and proceeded to deliberate.

After carefully examining the instructions before the court, and the testimony produced, the court decided as follows, and does so report:

The following facts are deemed established by the evidence, viz:

First. That on the 10th day of July, 1878, Pay Director C. W. Abbot reported for duty as paymaster of the navy-yard, Boston, and relieved Paymaster F. H. Swan of that duty. That Pay Director Abbot was ill at the time, and continuing so, was obliged to be relieved temporarily by Passed Assistant Paymaster Wm. W. Barry, on the 23d day of July. The latter remained in charge of the office up to October 5, when Pay Director Abbot resumed charge of the office. From July 10 until October 25, Mr. R. J. O'Reilly, who had filled the office of pay-clerk with Mr. Swan, continued to peform the duties of that office, having been highly recommended by Mr. Swan, with whom he had served for a number of years. That Pay Director Abbot and Passed Assistant Paymaster Barry were neither neglectful, careless, nor inefficient in the discharge of their duties.

Second. The method observed in receipting for public moneys.

That the paymaster drew checks, payable to his own order, and presented the same in person at the sub-treasury, for money to meet the payments on rolls of officers and employés of the yard.

In cases of money received from sales of public property in the yard, the method appears to have been in one department of the pay-officer of the yard himself; for money deposited, before making delivery of the goods, and in other departments, the receipt of the paymaster's clerk has been accepted, but it does not appear that the pay-officer had given authority to the clerk to sign such receipts.

Third. The methods observed in making payments of public moneys has been as follows:

In the case of officers present on pay-day, the money due them was paid in cash, and their receipts taken either on the roll or on individual receipts.

Absent officers were paid by check on the sub-treasury, drawn to their order, after receipts (generally signed in blank as to date and amount) had reached the paymaster's office. The employés of the yard were paid in cash, each man presenting himself on pay-day, the foreman of his department being present to identify him; the man's name being called at the window of the writer in charge of the rolls, he received a slip of paper or check (a sample of which is attached to this record, marked B), with the amount due upon it, and his number, and the stamp of the pay-office showing the date; this check he presented to the pay-clerk and received his money, the paymaster being present to supervise the business. These payments were made at regular times when possible.

Fourth. The method observed for filing and preserving vouchers has been, that in cases of single receipts the clerk took charge of them, and after the signature of the parties to whom payments were made thereon was had on the rolls, those receipts were either filed and retained by the clerk or returned to the parties signing them.

In cases of payments made to officers at other times than the last day of the month, receipts for the amounts paid were taken and returned to the officers at the end of the month.

Fifth. The public funds have been kept in the sub-treasury until required for immediate use, when, on being withdrawn by the paymaster, in person, were by him deposited in the safe provided, and for which he alone possessed the necessary combination to open.

Sums for current use, not ordinarily exceeding one thousand dollars, have been left in the hands of the paymaster's clerk.

Sixth. The forms of checks used for the pay of absent officers were the official checks supplied by the Treasury Department.

Seventh. Official checks, sent by mail, payable to the order of absent officers, was the precaution taken in such cases.

Eighth. That the receipts taken from officers absent, and borne on the rolls, were generally signed by them in blank as to dates and amounts, to be filled up in the office of the paymaster of the yard.

Ninth. That the deficiencies on the accounts of Passed Assistant Paymaster W. W. Barry are as follows:

Rear-Admiral A. L. Case having been overcharged	$751 65
Rear-Admiral W. R. Taylor having been overcharged	381 99
Paymaster J. McMahon having been overcharged	536 86
Assistant Engineer B. H. Warren overcharged	40 89
Boatswain H. E. Barnes overcharged	49 12
Received by him from sale of auction stores not accounted for	47 88
Sum total	1,808 39

eficiencies on the accounts of Pay Director C. W. Abbot are as follows:

t of Commander O. A. Batcheller, forgery	$138 00
t of Sailmaker J. E. Crowell, forgery	35 00
t of Gunner M. Dutcher, forgery	50 00
t of Gunner M. K. Henderson, forgery	50 00
t of Clerk Vebe Spicer, forgery	30 00
t of Carpenter Thomas Smith, overcharged	85 00
t of F. C. Christie, employé, forgery	66 00
t of J. P. Carter, carpenter, overcharged	65 62
t of Hugh McKenna, employé, overcharged	12 00
t of G. A. Galbraith, employé, overcharged	4 00
t of C. B. Abrams, employé, overcharged	55 75
t of F. C. Christie, employé, overcharged	31 00
t of W. F. Merrill, employé, overcharged	65 00
t of J. L. Cates, employé, overcharged	45 50
ash, shortage	64 28
total	797 15

se forgeries and overcharges were made by Clerk R. J. O'Reilly; that the aving been made good by Passed Assistant Paymaster Barry and Pay Di-ot, the government is not a loser by these irregularities, which were done e knowledge or connivance of any other person employed in the office.

amount that the government appears to be the loser of is $47.01, deposited of sale of ordnance stores, and which does not appear to be chargeable to ed Assistant Paymaster Barry or Pay Director Abbot. This deposit was er by Clerk R. J. O'Reilly October 3, 1878. The court therefore report, from hey deem established by the evidence, that, in their opinion, the manner of the business of the office, while in accordance with the usual practice, is n this, that the accepting blank receipts (left generally in charge of the es an opportunity for irregularities on his part, by making charges on the etaining the money so charged for his own use.

t is of opinion that the system of sending receipts in blank is wrong, and aymaster should not make payments to absent officers on receipts not fully

se of absentees on the list of employés at the regular pay-day, the court is that the rule that their pay should go over to the next regular pay-day, as n paragraph 2, page 155, Navy Regulations, should be adhered to. The such checks for pay in the hands of clerks opens the door to fraud and irreg- Such checks should, in the opinion of the court, be retained by the pay-self.

em of accountability, as provided by the regulations, for money received , and the order of the commandant of the yard has not been departed from master, but receipts, signed by Clerk O'Reilly, have been accepted in some ts for proceeds of sales of material.

up: The court finds that Pay Director Abbot, on relieving Paymaster Swan, lerk O'Reilly in the office on the recommendation of Mr. Swan, and owing ess of Mr. Abbot, it became necessary to order another pay officer to tem-y in his place. Mr. Barry was so ordered, and, knowing that he would t a short time, retained the clerk and writer during his term of service.

ot, after resuming the duties on October 5, learned some facts in relation y that caused him to watch him and finally suspend him. It was not uspension took place that the proofs came to light to establish the guilt of who appears to have possessed the confidence of other officers in the yard paymaster. The practice of transferring clerks without reappointment in as provided in the regulations, should, in the opinion of the court, not be

rt do not find that either Passed Assistant Paymaster Barry or Pay Director e been guilty of negligence, carelessness, or inefficiency, or are chargeable ability or mismanagement, but that, owing to the changes and transfers e brief period between the dates July 10 and November 1, an opportunity ed the clerk, O'Reilly, to carry over from one to the other any frauds that t concealed.

ing no further business before the court, at three o'clock and forty-five e court adjourned to await the instructions of the Secretary of the Navy.

O. C. RHIND,
Commodore, President of Court.

H. REED,
Passed Assistant Paymaster, Judge-Advocate.

While public policy requires from disbursing officers a strict accountability for the handling of funds by subordinates, some of the extenuating circumstances in this case are as follows:

Pay Director Abbot was ill when ordered to the Boston navy-yard, and continuing so, was relieved thirteen days thereafter by Assistant Paymaster Barry, during which brief time, and considering his illness, it is hardly to be expected that he had opportunity to verify by examination of books or otherwise the high recommendation from his predecessor of the Pay Clerk O'Reilly.

Within twenty days after the resumption of his duties by Pay Director Abbot, it appears that the dishonesty of the clerk was detected, but that before he could be arrested he had absconded; all of which would indicate reasonable care and diligence during the brief period for oversight afforded.

Passed Assistant Paymaster Barry was, according to the language of the preceding report "temporarily" assigned to the duty.

In the illness of the regular incumbent of the office, believing that his stay at the post would be short, and in the absence of any suspicion of an old employé, a paymaster acting as a substitute would naturally be reluctant to make special inspection or changes as to methods of payment; some of which methods and usages, as set forth in the findings of the court of inquiry, are to be condemned as affording too great opportunity for dishonest practice, but for the establishment of which, however, it does not appear that the officers who have suffered by this loss are responsible.

It further appears that the embezzling clerk O'Reilly had not been regularly reappointed by Pay Director Abbot, which would have been a definite declaration that he assumed responsibility for the selection of a subordinate already in office. Your committee concur in the opinion expressed by the court of inquiry, that a transfer of clerks without reappointment should not hereafter be permitted.

Under the exceptional circumstances of this case, and having carefully considered the facts and the evidence as herein recited, your committee make favorable report thereon, and recommend the passage of the bill.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 216.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 231.]

The Committee on Claims, to whom was referred the petition of Benjamin Holladay, praying compensation for spoliations by Indians on his property while engaged in carrying the mails of the United States under a contract with the United States, and for damages and expenses incurred in consequence of the change of his mail-route in compliance with the military orders, and for property taken and used by the military forces of the United States, has considered the said petition, and submit the following report thereon:

On the 26th day of November, 1877, the Senate Committee on Claims, having had this case under consideration, reported a bill (S. 346) referring the said claim of Mr. Holladay to the Court of Claims. The bill was accompanied by a report of which the following is a copy:

This memorial was presented in the Senate during the Forty-fourth Congress, and was referred to the Committee on Claims. It was considered by that committee, and on the 17th day of January, 1877, it was reported back to the Senate, accompanied by a written report. Your committee have gone carefully over all the papers in the case, which are voluminous, and we adopt the report made by Senate Committee on Claims to the Forty-fourth Congress, which is as follows:

The memorialist avers in his memorial, in brief, that he is a citizen of the United States; that from the year A. D. 1860 until the 13th day of November, A. D., 1866, he was contractor for the transportation of the United States mails on what was then known as the Overland Mail Route, between the Missouri River and Salt Lake City, in the Territory of Utah; that in the performance of his service in the transportation of the United States mails, amounting during much of said time to more than fifty tons of mail-matter per quarter, he employed 110 coaches, 1,750 horses and mules, and upward of 450 men; that he was, at great expense, compelled to erect buildings, houses, stables, stations, and shelters for the convenience, shelter, and protection of his men and animals along said mail-route and its tributaries; and also to provide, at great expense of cost and transportation, large supplies of food, forage, and wood.

It is further alleged that, while so engaged in the discharge of his duties as such contractor, his service was interfered with, impeded, and obstructed by large and numerous bands of Indians, who murdered his agents, servants, and employés, captured and carried away large numbers of his horses and mules, burned his store-houses, station-houses, barns, stables, large quantities of forage, provisions, wagons, harness, clothing, and other property which had been provided by him for properly conducting the business of the transportation of the United States mails over said route, and which he was compelled to replace at great expense and with tedious delays and damage in order to enable him to continue properly to perform such postal service for the United States Government.

The memorialist further complains that after he had erected his buildings, as hereinbefore stated, and secured his supplies for men and horses, &c., at his several stations along said mail-route, he was compelled, in consequence of the Indian depredations, by military orders, to abandon a large number of his buildings and stations and a very considerable amount of his supplies, and to change the line of his mail-route to parallel lines far distant from the first route; that he was also compelled, on making such changes, to erect new buildings, stations, houses, barns, &c., with constantly increasing expenses and losses.

The memorialist further avers that while so engaged in the transportation of the mails, large quantities of his hay, grain, and other supplies were taken by the military authorities of the United States and by them carried away for the use of the government troops and the government agents, and by them used for the benefit of the Government of the United States, and for which no compensation has ever been made to memorialist.

The memorialist states as a reason for delay in urging his claim for compensation for his losses, as stated, that his claims were presented to Congress in A. D. 1866; that on the 24th day of January of that year his petition for redress was referred to a committee of the House of Representatives, and that subsequently, by a disagreement of the two houses of Congress as to the measure of relief to be granted, the bill failed by the adjournment of Congress.

Your committee, on a careful consideration of the testimony, find that the memorialist was a mail-contractor, and did carry the United States mails on what was then known as the Overland Route from the Missouri River to Salt Lake City, Utah Territory, from the ——— day of September, A. D. 1861, until the 13th day of November, A. D. 1866, continuously; that in the performance of this service he employed 11 coaches, over 1,700 horses and mules, and about 450 men; that he was at great expense in erecting buildings, houses, stables, stations, and shelters for the convenience, shelter and protection of his men and animals, and in supplying at his various stations food, forage, and wood; that the length of said route was about 1,200 miles, and lay almost exclusively through the Indian country.

Your committee further find that during said period, and while memorialist was engaged in transporting said United States mails, his service was interfered with and obstructed by large and hostile bands of Indians, who murdered his agents, servants and employés, captured and carried away large numbers of his horses and mules, provisions, stores, wagons, and other property of great value, and who burned large numbers of his store-houses, barns, stables, and large quantities of forage, provisions, wagons, harness, clothing, and other property, and which said Benjamin Holladay was at great cost and expense in replacing; that said depredations were continued during the greater portion of the time that said Holladay was so engaged in transporting said mails on said route, and the effect of which was to prevent travel over said line and to render it a task of constant peril to the men engaged in running said coaches and in transporting said mails; that the evidence as to the amount and value of the property so taken and appropriated, being in the form of *ex-parte* affidavits, is, to a great extent, unsatisfactory; and your committee, although satisfied that a large amount of valuable property belonging to memorialist was so taken, do not feel justified in attempting to determine with any degree of accuracy the amount or value thereof.

Your committee further find from the testimony that, during the time said Indian depredations were being carried on, the Government of the United States, through the military authorities, undertook to give protection to said memorialist, and to guard his said mail-route and property from further interference on the part of said Indians, and, in order to give such protection, said Holladay was, by military orders, compelled to change the line of his said mail-route to parallel lines far distant from the first route; that on the 2d day of December, A. D. 1864, Col. J. M. Chivington, then in command of that military district, issued the following military order:

HEADQUARTERS DISTRICT OF COLORADO,
Denver, December 2, 1864.

SIR: I am directed to furnish your line complete protection against hostile Indians, which I can only do by its removal from the Platte to the Cut-off route. As it now runs, I am compelled to protect two lines instead of one. You will therefore remove your stock to the Cut-off route, which will enable me to use troops retained for an active campaign against these disturbers of public safety.

I am, sir, with respect, your obedient servant,

J. M. CHIVINGTON,
Colonel, Commanding District.

BENJAMIN HOLLADAY, Esq.,
Proprietor Overland Stage Line.

Your committee find that, in pursuance of this military order, said Benjamin Holladay removed his stage-line from the route it was then on, from Junction City to sixty miles northwest from Denver City, over and on to an entire new route, many miles—an average of thirty miles—distant from the old route, and for a distance in length of about 140 miles; that in making this change of route in accordance with said military order said Holladay was put to great cost and expense in removing barns, houses, stations, corrals, stock, provisions, and other property, and was necessarily compelled to abandon other houses, stations, barns, and other property of value that could not be moved to the new route.

Your committee further find that large quantities of hay, grain, and other supplies, belonging to said memorialist, were taken by the military authorities, under direction of military commanders of the United States forces, and by them used in the subsistence of government troops then in service on the plains along the line of said overland mail-route, and for which no compensation was ever made; that the amount and value, respectively, of property lost and abandoned by reason of said military order, and of property so taken and used by the military authorities as a necessity for the use of the government troops, and the cost and expense of changing said mail-route, do not definitely appear from the evidence in the case.

To summarize: Your committee find that the grounds of relief presented by the memorial and evidence are of the three following classes:

1st. For property taken and destroyed by hostile bands of Indians, which property belonged to memorialist, and was, at the time the same was so taken and destroyed, being used by him as a mail-contractor in the business of the transportation of the United States mails through an Indian country, and at a time during which the Government of the United States, through its agents, the President and the Postmaster-General, had given assurances of protection against Indian depredations, and against which depredations the Government of the United States attempted, so far as in its power, through its military arm, to protect memorialist;

2d. For property abandoned and lost necessarily, and the cost and expense of transferring other property, by reason and in pursuance of a military order of the United States Government; and

3d. For the value of property, hay, grain, and other supplies, belonging to memorialist, taken and used by the military authorities of the United States for the use and benefit of the Government of the United States.

As to the liability of the government to make just compensation to the memorialist for the claims specified in the two classes last designated, there can, in the judgment of your committee, be no room for controversy or doubt. And your committee, passing over these, would inquire into the more debatable proposition as to the liability of the government in equity and good conscience on the facts presented in the class first specified. And your committee, in determining this question, have carefully considered it, not only on principle and in the light of that well-established relation existing between the government and its contractors engaged in the transportation of the mails, but also in the light of legislative precedents. The question, while it bears a certain degree of sameness to the liability of the general government to the individual citizen not engaged in performing government service, to make compensation for damages resulting from Indian depredations, is not that case, but, on the contrary, quite another and different one. And the fact that the latter might be decided in the negative does not by any means control rightfully the decision of the case at bar.

While, should the case as to the right of the private citizen to recover in such contingency be decided in the affirmative (and upon that question the committee do not pass), *a fortiori* may the question as to the duty of the government to afford protection to its mail-contractors engaged in the business of transportation of the United States mails through an Indian country, and to make just compensation on failure to give such protection, be decided in the same way. The case under consideration, furthermore, is peculiarly exceptional, from the fact that protection was repeatedly affirmatively guaranteed by the government, and from other circumstances herein stated, and its determination either way should not be regarded as a rule applicable to mail-contractors generally, or a precedent for cases where these exceptional circumstances do not exist. Without pausing, therefore, to inquire into the former proposition as one foreign to, and the decision of which is not necessarily involved in, the present investigation, and bearing steadily in mind the distinction between the two, your committee come directly to the consideration of the question as to the liability of the government, in equity and good conscience, for damages resulting to a person engaged in transporting the United States mails through the Indian country of the United States, by the appropriation or destruction by force of his property by him being used in said government business, by hostile bands of Indians, under the exceptional circumstances of this case.

It must be conceded that the regular transportation of the United States mails with "celerity, certainty, and security" is a matter of vital importance to the business, political and social interests, and commercial prosperity of the whole people. And, to

accomplish this, the good faith and fidelity of the contractor, united with every able and necessary protection upon the part of the government, whereby all in tions to the line by obstruction to the route would be prevented, would see necessary; and only by the strict performance of such reciprocal obligations u part of government and contractor can this important branch of the gove service be faithfully performed. And acting upon this identical idea, the ment has, since the days of the Confederation, legislated by the enactment inal statutes for the protection of mail-routes and against interruption of States mails. And to-day it is a criminal offense in the United States to United States mails by threatening the carrier. Before the United States m be transported between two or more points in our country, a post-route n the authority of Congress, be established between those points. This is indispensable step to the transmission of the mails between such points. principal reason why this is so is in order that the jurisdiction of Congress t the mails from interruption and to afford protection to the carrier on t may be complete. Yet, while this is true in all ordinary cases, the liability contractor and government should be determined by the terms of the written In the present case a mail-route was established between the border line of ern settlements and those pioneer people who, not content with the slow pr simply moving the frontier line west by solid and self-protecting settlement their way in advance across the great American desert and over and thr passes of the Rocky Mountains, and built the foundations of empire on the of the Pacific. Mail communication became a necessity between the East extreme West, and the track of that communication lay, of necessity, across ness inhabited by hostile and savage men. To establish such a mail-route the mails over it was an undertaking upon the part of the government that c a parallel in the history of mail transportation, commands admiration, and illustrative and characteristic of the indomitable enterprise and unyielding the American people; for no government in the world ever before established much less daily, lines of mail-service over hundreds and thousands of miles desert and unsettled country, even in the absence of dangers incident to a infested with hostile bands of depredatory Indians. The government avai of the private enterprise of its citizen, the memorialist, to perform this h service, and the obligation, in equity and good conscience, to protect him property when Indian hostilities commenced, which was subsequent to the c ment of this service, was at once acknowledged by the government. That ernment so understood it at the time is plainly evident from the fact that tempt to afford such protection by placing a portion of the United States Ar the line of said route, and by changing a portion of said line by military the end that more complete protection might be afforded. If the governm in its protection, it was not the fault of him who undertook its business; an fail without any lack of diligence or good faith upon the part of the contra by reason of such failure the contractor suffered in the loss of his property, the opinion that, under the exceptional circumstances of this case, the go should make that loss good. It should be borne in mind, moreover, that du of the time covered by the depredations complained of there were peculiar a ing reasons why mail communication should be kept up between the Missis ley and Pacific States and Territories.

Our country was engaged in what at times seemed almost a hopeless strugg preservation of its existence, a struggle wherein not only the secession of States became, so far as in their power to accomplish it, a fixed fact, but wh establishment of a Pacific confederacy was to many minds a more than prob summation. Surrounded by these circumstances, with a hostile foe to both civilization scattered along the whole length of this route, it would have b madness upon the part of any contractor to have attempted, in the absence o tion from the Federal Government, to continue to transport the United Sta across this almost trackless realm; and to presume that the the Post-Office ment and the Government of the United States ever intended such a thing to suppose them capable of expecting impossibilities at the hands of their co a thing unworthy of the private citizen, much more so that of a just and government. The fact that protection was in part given is in harmony with just expressed, that the government understood it to be its duty to give p The importance, therefore, of maintaining this line of communication acros tinent during this critical period of our nation's history, coupled with the fa utter impossibility to maintain it after Indian hostilities commenced, except a body-guard furnished by the government or by an enormous sacrifice upon of the contractor, would seem to imply an equitable obligation of the strong ble character upon the part of the government to make just compensation sustained by the contractor by reason of a failure to furnish full and adeq tection.

While, as has been said, the principle is not involved in this case, it may be said, in passing, that the obligation and duty of protecting citizens of the United States in their passage through Territories infested by hostile tribes of savages, or settling permanently in said Territories, have been frequently conceded by the government. Congress has, year after year, appropriated public money and kept an army in the field, or ready to take the field for this purpose. Acts of indemnity by the government for losses by private citizens, and by citizens engaged in the government service, by depredations of hostile Indians have been very frequent. In the case of Magraw, mail-contractor from July, A. D., 1854, to August, 1856, on route from Independence, Mo., to Salt Lake (almost this identical route), the government gave him, by special enactment, $17,750, for losses in stock, stations, and supplies, through Indian depredations during the two years he was engaged in transporting the United States mails on said route. As early as A. D. 1836, Saltmarsh, Avery & Co., mail-contractors in Georgia and Alabama, lost their property by the Creek Indians. The government, by special enactment, paid them for their losses $9,779 (see Statutes at Large, vol. 6, p. 882). In the case of Livingston, Kinkead & Co., merchants, of Salt Lake City, one of the firm, *not in the government employ*, but traveling on the business of the firm as a passenger merely in one of Magraw's coaches, had in his possession $10,000 in coin; the Indians attacked the coach and robbed the passengers; among other things they robbed this passenger of the $10,000. The government, by special act of Congress, paid this amount to the firm to reimburse them for the loss. The case just quoted is an instance where the government recognized its obligation to protect the property of a passenger in a mail-coach by reimbursing him for a loss resulting from a failure to protect him, which is carrying the doctrine of protection much further than is claimed by the memorialist in this instance. Another case somewhat analogous is that of Moses D. Hogan (Statutes at Large, vol. 10, p. 843). Hogan contracted to deliver a certain number of cattle for the government service at Fort Sterling. The Indians stole and carried away a portion of the cattle; and Congress, by a special enactment, indemnified Hogan for the loss. Numerous other precedents might be quoted to show that Congress has frequently recognized the existence of an obligation on the part of the government, under exceptional and hard cases, to indemnify government contractors for losses sustained by reason of Indian depredations.

Your committee, therefore, on both principle and precedent, feel constrained, under the peculiar and exceptional circumstances presented by this case, to recognize the existence of an obligation on the part of the government to indemnify the memorialist for whatever loss he sustained, through no fault of his own, by reason of Indian depredations, while engaged in transporting said United States mail over said overland route between the Missouri River and Salt Lake, between the —— day of September, A. D. 1861, and November 13, A. D. 1866. But your committee are not willing that the value and amount of property taken, or the loss suffered by the memorialist, should be determined on *ex-parte* affidavits alone; but believing that it is a case wherein the rights of the government can only be properly protected by an exercise of the privilege of cross-examination and by a thorough investigation in a court of competent jurisdiction, wherein the government shall be represented by counsel, and wherein not only the right of cross-examining the claimant's witnesses, but also to call witnesses of its own, shall exist, your committee decline to grant the prayer of memoralist, and refuse to recommend a direct appropriation; but, for the reasons herein stated, would refer the claims of memorialist to the Court of Claims for adjustment; and for such purpose report back the accompanying bill and recommend its passage, with, however, the distinct statement that nothing herein stated shall be regarded as a rule or precedent fixing the liability of the government to mail-contractors in any case wherein the peculiar circumstances of this case as herein presented are absent.

This report is adopted by your committee, except so much thereof as recommends the reference of the claims of memorialist to the Court of Claims.

On the 12th of March, 1878, the said bill being under consideration by the Senate, it was recommitted to the Committee on Claims, under the following resolution adopted by the Senate, viz:

Resolved, That the bill (S. 346) referring the claim of Benjamin Holladay to the Court of Claims be recommitted to the Committee on Claims, with instructions to report to the Senate what amount, if any, is equitably due the claimant on account of his claim; and the said committee shall have power to send for persons and papers and to take testimony—

The committee, under this resolution, re-examined the claim and, on the 13th of June, 1878, submitted the following report, which report your committee adopt:

Your committee state that, under the resolution of the Senate adopted March 12

1878, they proceeded to another and further examination of the claim of said Holladay, both as to his right in equity to be indemnified for his losses and damages above mentioned, and also as to the extent and amount of the same under the different heads of his said claim as stated in his memorial and exhibited in the proofs on file and the evidence offered by him under the reinvestigation made by this committee; and, in addition to the record and other testimony heretofore filed, your committee called and examined as witnesses on the part of said Holladay the following-named persons, viz: George K. Otis, of New York City, who was, from October, 1861, to September, 1863, employed by said Holladay in the business of the Overland Stage Line as his general financial agent, auditor, accountant, and as a purchaser of supplies for the same, and from October, 1863, to September, 1864, as the general superintendent of the entire stage-line, from Atchison, Kans., to Salt Lake City, and who had the supervision and control of the men, stock, material, stations—in short, everything pertaining to the said line—was called before the committee and examined at length.

The testimony of Ben. Holladay, the claimant and memorialist, was also taken by the committee; the testimony of Robert J. Spotswood, who was a division agent and messenger in the said stage-line, in the service of the claimant, from November, 1862, to the fall of the year 1866, was also taken by the committee. The testimony of George H. Carlyle, who was in the service of the claimant from the year 1862 to the year 1866, engaged in furnishing mail stations with grain between Fort Kearney and North Platte, a distance of 650 miles, and who was, also, at times, employed in other important duties in said stage-line during the period mentioned, was also taken by the committee. The committee also took the testimony of David Street, who was engaged in the service of the claimant on said line as paymaster, auditor of accounts against the line, and as a purchasing agent of supplies for the same, from May, 1862, to November, 1866; also the testimony of Edward F. Hooker, an experienced business man, and who had been engaged in staging on the plains west of the Missouri River between that river and the Rocky Mountains, and along a line afterward occupied by the claimant in the transportation of the mails of the United States; the testimony of General James Craig, at one time commander of the troops assigned to the duty of protecting the overland mail and telegraph lines from the spring of the year 1862 to the summer of 1863, connected with whose testimony will be found a communication in the line of his duty to General J. G. Blunt, United States Volunteers, commanding the Department of Kansas, in regard to the removal of the stage-line of the claimant carrying the United States mails from the North Platte and Sweet Water route to a route south of the same, passing through Bridger's Pass, sometimes called the "Cherokee trail" or route; also the testimony of General Robert B. Mitchell, of the United States Volunteers, on duty as such to protect the overland mail for a period of ten months, beginning in 1864 and extending over the time when Julesburg was destroyed by the Indians (February 2, 1865), embracing part of Colorado, Nebraska, and a portion of Utah.

The committee also examined at length Bela M. Hughes, of Denver, Colo., who, for several years, while Holladay was carrying the overland mail, was the attorney and general agent for said Holladay in his said business.

The committee state that the testimony of the witnesses by it taken, viz, of the said Carlyle, Spotswood, Hooker, Street, Craig, George K. Otis, Mitchell, and Holladay, taken and printed under resolution of the Senate of March 12, 1878, on part of the claimant, is herewith exhibited to the Senate, as well as the testimony of Col. Charles G. Otis, of the United States Volunteers, in behalf of the claimant, taken by the committee under the same resolution.

The last-mentioned witness was an officer on duty on the said stage-line from the summer of 1865 to the month of July, 1866, and had personal knowledge of Indian hostilities, the expense of the erection of buildings, the cost of grain and hay, the price of horses, and the value of the station destroyed at Little Laramie, on the said stage-line, during the period of his service in that disturbed region.

The committee also exhibit to the Senate the affidavits of the witnesses heretofore filed with the committee on behalf of the claimant, viz: of Pease, Flenus, Murray, Slade, Babcock, Bromley, Reid, Johnson, Eaton, Carlyle, Riddle, Lloyd, Ivins, Jerome, Thomas, Reynolds, Murphy, Hudnut, Quinn, Hughes, Brewer, Stewart, Spotswood, and Trotter, and printed under said resolution of the Senate last mentioned, together with the order of Col. John M. Chivington, colonel, commanding the district of Colorado, ordering in the year 1864 the change of part of the route on which the claimant was then transporting the United States mails.

The committee state that the evidence submitted tends to show the state of Indian hostilities and depredations along and upon the overland stage-line, owned by the claimant, at various periods of time, from the year 1861 to the fall of the year 1866, as well as that, for want of sufficient forces, the government had been unable to afford the necessary protection to the conduct of its mails and the vast property interest of the claimant herein, who transported the same, in the midst of the destruction of a great part of such property and the lives of many of his employés engaged in promoting that service.

And your committee also report the testimony of Robert Foote, T. B. Murdock, and N. F. Frazier, taken on the part of the United States by it.

Mr. Frazier states that he was in the service of the claimant from November, 1864, to the fall of 1866, employed at Little Blue, Kiowa, and Big Sandy stations, east of Fort Kearney, a period of time beginning three months after the destruction of the stations on that part of the stage-line and the murder of many persons, which facts are embodied in other evidence taken before the committee.

The witness states that all he knew of the business or operations of the stage-line was in regard to that part thereof which was east of Fort Kearney. He was engaged on the line in 1864, when he was 17 years of age, and quit at 19 years of age.

He gives some evidence in regard to three or four horses which had only strayed away while he was there, and were subsequently recovered, and which seem not to have been claimed as lost.

He also stated that the stations of the line east of Kearney were principally constructed of logs and covered with earth and poles, but could give no estimate in regard to their value.

Mr. Foote, called on part of the United States, stated that he was paid $1,500 for putting up the Pine Grove and Bridger's Pass stations, which were very plain.

These stations, Mr. Foote states, were destroyed in 1867, after Holladay had sold out (November previous) all his interest in the stage-line, and the only damage to either of these stations derived by Holladay is for injury to and depredations on property at Pine Grove station of $500, and for depredations on property at Bridger's Pass station, May 19 and May 26, 1865, of $2,100, the stations being destroyed after Holladay's ownership ceased.

In regard to the loss of stock by Holladay, Mr. Foote knew nothing, but gave evidence in regard to the price of corn at Fort Laramie in 1862, and at Fort Halleck in 1864, and rates the same at 10 to 12 cents per pound at these places and dates. This proof is not applicable, as no claim is made for grain destroyed or taken from stations near these posts in these years. However, the evidence in the affidavits heretofore filed, and the evidence now taken by this committee on the part of claimant, is satisfactory in regard to the value of the grain destroyed and taken at various dates on the stage-line; and in this behalf the committee refer to the evidence of David Street, the paymaster of the stage-line; George K. Otis, financial agent of the same; General R. B. Mitchell, Edward F. Hooker, Robert J. Spotswood, one of the division agents for the line; and George H. Carlyle, who was in the service of the same from 1862 to 1866, and directly engaged in hauling and purchasing grain for its use during that period, whose actual personal knowledge of the prices of grain in that region must be paramount.

Another witness called on the part of the United States, T. B. Murdock, a bugler in the military service at the time, gave his opinion as to the value of stations on the line generally, and the value of mules at Fort Halleck from "the middle of July, 1862," to the first of November, 1863, reducing the value of the stations, by giving his opinion of their cost, and value of the mules of the line, as established by other evidence and by proof of what emigrants sold them for; but the preponderance of the testimony is opposed to this witness; and it was given by those who had superior means of knowledge; that is, by those whose business it had been to put up and pay for the stations, and to purchase mules for the line. The witness named could only speak of mules sold by emigrants to the West, which it is hardly probable would be fit for use on the stage-line.

The affidavit of R. L. Pease, on file in this case, stated "that during the summer of 1863, thirty-four head of stage-mules were taken off the stage-line near Fort Halleck". The witness, Mr. Murdock, states that such a number of mules was not stolen "from *that station* (Fort Halleck) by the Indians, or any one else at that time." It will be observed that the statement of Mr. Pease did not confine the loss to the station at Fort Halleck alone during the summer of 1863; and if there was any conflict between the evidence of these persons, the committee would prefer to give credence to the statement of Mr. Pease, who was an agent of the line at the time, and acquired his knowledge in the line of his duty. His testimony as to the loss comes from one likely to know it, and the mere fact that another person who had no connection with the line, had no knowledge of the matter, does not affect the value of his evidence at all in our judgment.

Of the losses on the stage-line after the 1st of November, 1863, the witness Murdock could give no evidence, as he had left the country at that date, as he states, and his evidence in no manner affects the evidence of R. J. Spotswood, who testifies as to the losses on that division of the line, and of which he had charge from the month of October, 1864, to the fall of 1866, as he states in his evidence taken by the committee. It will be borne in mind that the division of Spotswood extended from Denver west to the North Platte River, and embraced the region twenty miles west of Fort Halleck, and over two hundred miles east of that fort.

This witness also testified in regard to the probable cost of the stations at Pass

Creek and Medicine Bow, neither of which was destroyed, and neither involved in this investigation, save the injury to the *corral* at the latter. He also gave evidence in regard to the value of the property, houses and barns, burnt at Julesburg; but the evidence of others is opposed to his testimony, and was given by those who had better opportunities to know the value of that property and its cost. He also gave evidence in regard to the probable cost of Little Laramie station, burnt on Spotswood's division in 1865; but the committee has preferred to take the valuation given by Mr. Spotswood, who had means of knowing the cost and value thereof, whose reputation was so well established by witnesses on both sides of this case, and whose demeanor before the committee left such a favorable impression of the witness. Besides, the witness Murdock was, at the time he was stationed on the stage-line, not exceeding twenty-three years of age, a bugler in the service, and could not have acquired much experience in the cost and value of building, and more particularly in a country where the expense of constructing houses and barns—structures of any kind—was very great as compared with the construction in other places, and it does not appear that he had been engaged in any such work, and became thus competent to testify with certainty in the premises. This witness, Murdock, also testified that "Holladay had a just and valid claim against the government"; and further stated that "all he found fault with was that he had claimed too much for property destroyed; but that he might be mistaken about that."

But to conclude this point and confirm the opinion we have arrived at in regard to the loss of the station at Little Laramie, we take the evidence of Col. Charles G. Otis of the United States Volunteers, who was stationed on the stage-line and was acquainted with that station, and who gives his opinion against that of the witness Murdock, and in his testimony before the committee says that he should think "the cost of it would be $3,000 to $3,500, with its surroundings, stables, and corrals generally."

The witness Murdock testified that, in his opinion, "$10,000 would put up all the buildings that were at Julesburg in 1863," when he saw them last. His evidence is controverted by the evidence of George K. Otis, who was familiar with the property there, and also by the evidence of Col Edward F. Hooker, both of whom were men of mature age and experience, and had been a long time conversant with business, and were less likely to err in a matter of computation of value than a young man of twenty-three years of age, who did not show that he had any experience in such matters, the evidence of Messrs. Otis and Hooker being maintained fully by the evidence of David Street, so long in the service of the stage-line and familiar with the property of the same.

Your committee also exhibit to the Senate the testimony taken on the part of the United States, printed under the resolution last mentioned, viz, Robert Foote, T. B. Murdock, and N. F. Frazier, which is elsewhere referred to in this report.

After a careful examination of all the testimony in this case, your committee have decided to adhere to the conclusion arrived at in their former report as to the right of the memorialist Holladay, in equity, to compensation on account of the claims made by him; and this opinion has been strengthened and confirmed by the examination of several important witnesses on the part of the claimant, whose *ex-parte* affidavits had been filed theretofore in the case, as well as other important witnesses who had not been called to testify previously.

Your committee find, from the evidence adduced in this case, that in the summer of the year 1862, in consequence of Indian hostilities, about 300 miles of the mail line of the claimant was so damaged, broken up, and infested by Indians as to compel its abandonment by the claimant, under approval of the Post-Office Department and of the officer in command of the military forces assigned to protect the overland mails, and to select a route farther south, involving the establishment of a new line altogether for a distance in length of over 500 miles, and distant from 100 to 300 miles from the old line, thus transferring the transportation of the mails from the North Platte and Sweetwater route to the route known as the route through Laramie Plains, Bridger's Pass, and along Bitter Creek, and your committee find that this removal was an absolute necessity; that, as stated by General James Craig in his evidence before the committee, it was not possible to protect the line against the Indians, and it could only be kept up "with the consent of the Indians themselves," and that the claimant was promised both protection to his conduct of the mails and indemnity for his losses by the President of the United States. The removal thus mentioned involved the abandonment of 26 mail-stations and a large amount of forage and articles of value necessary to the running of the stages, and the memorialist was compelled to construct new stations along the new line, 25 in number, at a large expense, as shown by the testimony, two of which (Sage Creek and Little Laramie) were destroyed and one (Pine Grove) damaged by the Indians, which destruction and damage constitute part of the claim made under another head.

Your committee find, from the testimony, that the memorialist sustained by the re-

moval from the old line referred to above damages to the extent of $77,000. (See Appendix A for details.)

Your committee further find that, in pursuance of a military order of Col. J. M. Chivington, commanding the district of Colorado, which appears in the printed testimony returned by the committee, the memorialist, Holladay, was compelled to remove and did remove the stage-line from the so-called Platte River Route to the so-called Cut-off Route, being forced thus to abandon some of his stations on 140 miles of road, and to remove 12 others to the new road, and rebuild the same at great loss and expense on such new line.

The testimony tends to show that the damage to the memorialist of this removal of line under the Chivington order, embracing as it did the transfer of houses, barns, hay, grain, and other articles, and rebuilding structures necessary to the line, was in the neighborhood of $50,000. (See Appendix B for details.)

Your committee find from the testimony given in the case that a large amount of grain, hay, feed, provisions, and property, belonging to the memorialist, Holladay, was taken and used from time to time between October 23, 1864, and December, 1865, by the military forces of the United States scattered along the route of the new stage-line for its protection; quantities of wood, hauled for the use of stations, appropriated, and even houses and stables used for fuel by them, for none of which vouchers were given. Your committee report that the testimony on this head of claim tends strongly to show that the value of the property taken thus by the military forces—grain, hay, wood, and provisions, including the houses and stables destroyed—was in the neighborhood of $30,000. (See Appendix C for details.)

Your committee further report that the evidence tends strongly to show that the damages sustained by the memorialist, Holladay, while carrying the mail of the United States, by reason directly of depredations and hostilities of the Indians along his route, was $369,739; which sum, added to the other sums above found, makes a total of $526,739 damages sustained by said memorialist in the discharge of his duties in the carrying of the mails. (See Appendix D for details.)

The mails were, at a critical period, carried with a courage and fidelity which deserve recognition at the hands of the government. The aggregate of the losses is large, but this surely is not a good reason why they should not be settled or paid. The memorialist has now been pressing his claim upon Congress for twelve years.

Before concluding this report, your committee would call the attention of the Senate to the action of Congress in like case, cited in the former report of their committee, as well as to its action relieving John R. Beckley, a mail-contractor injured by the results of war during the years 1862, 1863, 1864, and 1865, in the State of Kentucky. There are many precedents for such action since the foundation of this government, dictated by a sound discretion and sense of justice to its citizens.

We would also cite the action of Congress, in the claim of Elbridge Gerry, of Colorado Territory, for losses by Indian hostilities, the report of the Committee on Indian Affairs of the Senate, therein made by Mr. Corbett, a Senator from Oregon (No. 38, second session Forty-second Congress, dated February 12, 1872), with the accompanying bill, which was passed June 10, 1872, and will be found at page 701 of volume 17, of General Statutes of United States, allowing him $13,000.

Said report made by Mr. Corbett, is as follows:

The Committee on Indian Affairs, to whom was referred the petition of Elbridge Gerry, make the following report:

The petition sets forth the petition of Elbridge Gerry, for the sum of $30,600; said claim being based upon his alleged losses in 1864, in which he sets forth his losses to be the amount above named, as follows:

August 21, 1864.	By the Cheyenne Indians, for 63 head of horses and mules, at $200 each	$13,200
August 18, 1865.	By the Brulé Sioux Indians, 21 head of horses, at $200 each	4,200
October 21, 1865.	By Ogallalla Sioux Indians, 88 head brood-mares and young stock, at $150 each	13,200

This claim is sustained by a letter of Vital Jarrot, United States Indian agent, dated Fort Laramie, July 12, 1866, inclosing the acknowledgment of said Indians that they did take and appropriate said stock to their use, and that no part of said stock has ever been returned to said Gerry. The claimant alleges that he rendered important services to the people of Colorado, by leaving his house on the night of the 19th August, 1864, and warning the people and the governor of an impending attack by the Indians, which two friendly chiefs had informed him would take place on the 21st of August, which information was given him for his own protection; that by reason of his leaving home to give this information, the Indians became hostile to him, and have, since that time, taken from him said property. These facts are sustained by the

report of the Commissioner of Indian Affairs, 1864, pages 219 and 232; also by let
John Evans, late governor of Colorado Territory, dated Denver, November 12, 1
In consideration of the foregoing statement, and the sworn statement of El
Gerry, the committee recommend an allowance, as follows:

For the 66 head of horses and mules lost on the 21st August, 1864.....
For the 21 head of horses lost August 18, 1865.....
For the 88 head of brood-mares and young stock lost October 21, 1865.....

which amounts, when paid, shall be charged to the respective tribes who took t
stock, and shall be deducted from any annuities or money due or to become d
respective tribes. We herewith report a bill for the payment of the same.

It will be borne in mind that Holladay, the claimant, sustained his losses wl
rying the transcontinental mails through the same region at a period when the
portation was of highest importance to the whole country.
Mr. Holladay's losses were very large, and we think he is equitably entitled
relief. Under all the circumstances, we have concluded to recommend that h
the sum of five hundred and twenty-six thousand seven hundred and thirty-
lars, in full payment and satisfaction of all claims of said Holladay against th
States for spoliations by hostile Indians on his property while carrying th
States mails during the existence of Indian hostilities on the line of said ma
for property taken and used by United States troops for the benefit of th
States; and for losses of property and expenses incurred in changing his m
in compliance with the orders of the United States commanding officer; and w
ingly report the accompanying bill and recommend that it do pass, when an
proposed.

APPENDIX A.

The cost of removal from the North Platte and Sweet Water, or South Pass
the route through Bridger's Pass, along Laramie Plains and Bitter Creek, s
called the Cherokee Trail, or Bates Creek route, and the damages incide
shown by the affidavit of Col. Isaac E. Eaton (p. 12) in the printed copies of
He was superintendent of the Overland Mail Line under Holladay, in 1862,
Indian raids, detailed in his evidence, were perpetrated. He states that Holl
compelled to abandon 26 stations, worth $2,000 each, and a large amount c
and other articles of value, necessary to the running of the line, of the amount
he could form no true estimate; but Holladay, who had to pay for supplies t
those lost on the old line, and abandoned, under the enforced removal, state
printed evidence) that the sum of $25,000 would not cover these losses.
Under the circumstances, the line being changed in the face of hostile savag
be apparent that no exact computation could be made of the various articles
ment existing necessarily at each of the twenty-six abandoned stations, as th
was a retreat in the face of a vigilant and dangerous foe, in the midst of actu
ties, and under the apprehension of destruction to the lives of the employé
could have been no time for anything like taking account of the articles lef
The hostile attitude of the savages is abundantly proven by General Craig, w
that the line could only have been kept up "by consent of the Indians;
removal ordered was a wise measure in all respects." (P. 55 of printed e
David Street, an officer of the line (p. 51 of printed evidence), testifies to t
donment of a great deal of valuable property, owing to the hasty manner c
moval; and also that the stations abandoned were of a substantial charac
them; and that the one at Horse-Shoe Creek, which was a supply-station, wa
smith shop, coach and harness shop, warehouses, lodging-houses, offices, and c
the most substantial nature, erected at heavy outlay.

APPENDIX B.

The cost of removal from the Platte River route to the so-called Cut-off
order of Colonel Chivington, is shown by the evidence (p. 56) of George K.
gave instructions for it, as he was then acting as superintendent of the line.
He states that he made an estimate of the cost—knowing the number
necessary, the distance to haul, as well as an estimate of the loss of grain a
removal—and that he is well satisfied that it did cost $50,000; fully that, if
David Street (p. 51 of the evidence) sustains Otis in the statement he m
the line was subjected to heavy losses in consequence of the removal.

ence of the claimant is to the effect that he objected to removal, stating to officer that winter was on him, the stations then supplied, the grain-sacks o bins, and the sacks sent off to be filled again, fuel procured, &c.; and ations had to be pulled down, hauled, and put up again; all which he to that officer.

F. Hooker (p. 48 of evidence) states that, in his opinion, the loss of hay and putting up new stations, the labor of removal, &c., would cost not 0 a station.

. Carlyle (p 35 of evidence) stated that the sum of $50,000 for removing and the loss of grain and hay and corrals, and wood, &c., was not too evidence is very full on the subject, and minutely describes the process of tations, and the distance for removal from 25 to 60 miles.

Reynolds, superintendent of the line (p. 20 of the evidence), also states mat- rtance in regard to the damage by removal, showing the nature of the re- acidents, and extent of work necessary to accomplish the act.

APPENDIX C.

ges sustained by the claimant for grain, fuel, hay, &c., used by the military e line of the claimant in the Territory of Colorado, is proven by Carlyle (p. vidence). He states that the military forces took at one time twenty-nine n from the line at Fort Kearney, worth $100 a head, and one hundred cords Julesburg, worth $50 a cord; and that from what he knew to have been nd used by the soldiers, he did not consider $30,000 an overestimate of the licted by the military on the line of the claimant, and that when a re- ything used was wanted it was refused. He stated that they were in the ing to stations and getting whatever was wanted by them, grain or pro- il to stop the raids a military order was procured, and that this damage etween October, 1864, and December, 1865.

reet (p. 51 of the evidence) also gave evidence that the line was subjected osses in consequence of damage done and property taken by the United iers.

orge K. Otis states (p. 56 of the evidence) that he made the estimate of the one by the military forces to the property of the claimant, and that he made e of $30,000 after consultation with the division agents and men employed e-line; that no record could be kept of the property taken or used, or what ip and consumed; but from the number of troops constantly passing up he road, he was satisfied that at least $30,000 would be required to indem- imant.

Reynolds (p. 20), superintendent of the line from October, 1864, to March . that large amounts of grain and hay and wood were consumed by the mil- on the line, the property of claimant, while he was superintendent of the veral houses and stables used for fuel and other purposes.

APPENDIX D.

I.

an depredations on the stage-line of the claimant, as established by the ppear as follows:

3. 173 horses and 34 mules, near Fort Halleck, page 4, printed evidence of R. L. Pease, total value	$41,400 00

II.

Loss at 3-Crossings Station:	
2. 22 mules and horses, at $225 each	$1,950 00
10 sets 4-horse harness, at $110 each	1,100 00
3 head oxen, at $50 each	150 00
2. 9 head mules, at $200 each	1,800 00
9 sets 4-horse harness, at $110 each	990 00
Damage to two coaches	500 00
	6,390 00

At Plant Station:

April 18, 1862.	5 mules, at $200 each	$1,000 00
	4 horses, at $225 each	900 00
	20 sets 4-horse harness, at $110 each	2,200 00
April 20, 1862.	2 mules, at $200 each	400 00
		4,500 00

At Ice Spring Station:

April 23, 1862.	10 mules, at $200 each	2,000 00
	5 sets 4-horse harness, at $110 each	550 00
	1 cow and ox, at $50 each	100 00
		2,650 00

At Strawberry Station:

May 23, 1862.	35 sacks barley, 3,500 pounds, at 15 cents per pound	525 00
	At Upper Crossings Sweet Water:	
	18 sacks barley, 1,800 pounds, at 15 cents	270 00
		795 00
	Damage done to stations at 3-Crossings, Sweet Water, Split Rock, and Ice Springs, each $500	1,500 00

To establish the damages above claimed, reference is made to the evidence of Flowers, division agent (p. 3 of evidence); R. Murray, employé (p. 4 of same).

III.

Loss at Sweet Water Bridge:

April 18, 1862.	8 mules and horses, at $200 each	$1,600 00
	At Horse Creek Station:	
Mar. 23, 1862.	5 horses, at $175 each	875 00
	18 mules, at $225 each	4,050 00
		6,525 00

At Red Buttes:

April 1, 1862.	15 mules and horses, at $125 each	2,625 00
April 21, 1862.	6 mules and horses, at $175 each	1,050 00
	At Platte Bridge Station:	
March, 1862.	13 mules, at $150 each	1,950,00
		5,625 00

To prove the loss above claimed, reference is made to the evidence of J. A. Slade, division agent (p. 7 of evidence).

IV.

Loss at Big Sandy Station

April, 1862.	18 mules, at $225 each	$4,050 00
	4 horses, at $225 each	900 00
	1 4-horse harness	110 00
		5,060 00

V.

At Green River Station:

April, 1862.	100 sacks barley, 100,000 pounds, at 15 cents	$1,500 00
	50 sacks oats, 5,000 pounds, at 15 cents	750 00
		2,250 00

This is proven by Babcock (p. 8 of evidence.)

VI.

Loss at Dry Sandy Station:

Mar. 15, 1862.	2 mules, at $200 each	$400 00

At Green River Station:

), 1862.	5 horses, at $200 each	$1,000 00
	6 sets harness, at $20 each	120 00
	120 sacks oats, at $5 each	600 00
	480 empty sacks, at 60 cents each	288 00
	Damage done to station	600 00
		2,608 00

At Big Sandy Station:

, 1862.	4 mules, at $200 each	800 00
	20 sacks oats, at $5 each	100 00
	3 tons hay, at $30 per ton	90 00
	Damage to station	500 00
		1,490 00

At Muddy Station:

), 1862.	4 mules, at $200 each	800 00

At Bear River Station:

	2 horses, at $100 each	200 00
	Damage to station at Pacific Springs, Dry Sandy, and Little Sandy, at $500 each	1,500 00
		2,500 00

At Little Sandy Station:

	30 sacks oats, at $5 per sack	150 00

tablish the losses above, reference is had to the evidence of J. E. Bromley, divis-nt, pages 8 and 9 of the same printed evidence.

VII.

At Split Rock Station:

, 1862.	10 mules, at $200 each	$2,000 00
	1 horse, at $200	200 00
	12 sets of single harness, at $20 each	240 00
), 1862.	7 mules, at $200 each	1,400 00
	8 sets single harness, at 20 each	160 00
		4,000 00

At Rocky Ridge Station:

3, 1862.	6 mules, at $200 each	$1,200 00

ove this loss, reference is made to the evidence of W. A. Reid, division agent, and 9 of evidence.

VIII.

At Wells Station:

0, 1862.	2 horses, at $150 each	$300 00

loss is established by the evidence of Johnson, page 9 of evidence.

IX.

Loss at Midway Station:

, 1864.	Dishes and furniture destroyed	$500 00

At Platte Station:

	4 horses, at $350 each	1,400 00
	250 sacks corn, 28,000 pounds, at 20 cents	5,600 00
	10 tons of hay, at $40 per ton	400 00
		7,900 00

	At Plum Creek Station:	
	250 sacks corn, 28,000 pounds, at 20 cents per pound	$5,600 00
	At Craig Station:	
	250 sacks corn, 28,000 pounds, at 20 cents per pound	5,600 00
	29 head of oxen, at $100 each	2,900 00
		14,100 00

The evidence to prove these losses consists of the proof made by George H. Carlyle and Solomon Riddle, pages 11, 12, 13, 14, of the printed evidence, reported.

X.

	Losses at Diamond Springs:	
August, 1864.	250 sacks corn, 28,000 pounds, at 20 cents	$5,600 00
	15 tons hay, at $40	600 00
		6,200 00
	At Sand Hill Station:	
	250 sacks corn, 28,000 pounds, at 20 cents	5,600 00
	15 tons hay, at $40	600 00
		6,200 00
	At Alkali Station:	
	250 sacks corn, 28,000 pounds, at 20 cents	5,600 00
	20 tons hay, at $40	800 00
		6,400 00
	At Elk Horn Station:	
	65 sacks corn, 7,280 pounds at 20 cents	1,456 00
	10 tons hay, at $40	400 00
		1,856 00
	At Cold Spring Station:	
	40 sacks corn, 4,480 pounds, at 20 cents	896 00
	15 tons hay, at $40	600 00
		1,496 00
	At Gilman's Station:	
	30 sacks corn, 3,360 pounds, at 20 cents	672 00
	At Midway Station:	
	30 sacks corn, 3,360 pounds, at 20 cents	672 00
	15 tons hay, at $40	600 00
		1,944 00
	At Willow Island:	
August, 1864.	50 sacks corn, 5,600 pounds, at 20 cents	1,120 00
	10 tons hay, at $40	400 00
		1,520 00
	At Plum Creek:	
	15 tons hay, at $40	600 00
	At Julesburg:	
Jan. 7, 1865.	1 mule	100 00
	1 set 4-horse harness	120 00
		820 00
	On the road:	
Jan. 19, 1865.	2 stage horses and harness	450 00
Sept. 4,	1 horse shot out of team	200 00
		650 00

For the evidence to establish these losses above mentioned, see evidence of Riddle, pages 13, 14, of printed testimony; Murphy, also, pages 23, 24, of same.

XII.

	Loss at Junction Station:	
16, 1864.	5 stage-horses, $250 each	$1,250 00
	At Beaver Creek:	
	1 horse, at $250	250 00
	At Lupton Station:	
1864.	1 horse	250 00
		1,750 00
	At American Ranch:	
1865.	8 horses, $250	2,000 00
	2 sets 4-horse harness, $110 each	220 00
	2 horses, $250 each	500 00
	58 head of oxen, $100 each	5,800 00
		8,520 00
	At Antelope Station:	
1864, to 1865.	House, barn, and corral burned	5,000 00
	25 tons hay, at $50	1,250 00
	125 sacks corn, 14,000 pounds, at 20 cents	2,800 00
		9,050 00
	At Spring Hill:	
	Houses, barns, and furniture destroyed	6,000 00
	20 tons hay, at $50	1,000 00
	90 sacks corn, 10,080 pounds, at 22 cents	2,217 60
		9,217 60
	At Dennison Station:	
	Barn and corral burned	2,500 00
	25 tons hay, at $50	1,250 00
	200 sacks corn, 22,400 pounds, at 22 cents	4,928 00
		8,678 00
	At American Ranch:	
	Barn destroyed; burned	1,500 00
	30 tons hay, at $50	1,500 00
	227 sacks corn, 25,424 pounds, at 22 cents	5,593 00
		8,593 00

XI.

	Losses at Summit Station:	
1864.	Station, furniture, and bedding destroyed	$2,500 00
	At 32-Mile Creek Station:	
	Furniture, crockery, and stores destroyed	2,500 00
		5,000 00
	At Little Blue Station:	
	Furniture and grain destroyed	2,000 00
	2 horses killed on the road, $200 each	400 00
		2,400 00
	At Pawnee Ranch:	
	4 horses, $200 each	800 00
	At Muddy Station:	
	1,500 pounds corn, 12 cents	180 00
		980 00

At Lone-Tree Station:	
Station destroyed	$1,000
9 horses taken, $200 each	1,800
5 horses killed in escaping from the Indians	1,000
	3,800
At Liberty Town:	
2 sets double harness, $110 each	220
At Summit Station:	
200 bushels corn, 11,200 pounds, at 12 cents	1,344
	1,564

The evidence in regard to the above losses will be found at pages 15, 16, 17, 18 printed proof given by Lloyd, Ivins, and Jerome.

	At Murray's Ranch:	
Aug., 1865.	15 tons hay	$750
	Junction Ranch:	
	10 tons hay, $50	500
	Bijou Station:	
	7 tons hay, $50	350
		1,600
	Valley Station:	
	20 tons hay, $50	1,000
	Beaver Creek Station:	
	75 sacks corn, 8,400 pounds, 22 cents	1,848
	Murray's Station:	
	100 sacks corn, 11,200 pounds, 22 cents	2,464
		5,312
	Junction Station:	
	100 sacks corn, 11,200 pounds, 22 cents	2,464
	Bijou Station:	
	48 sacks corn, 5,376 pounds, 22 cents	1,182
	Toll-gate Station:	
	20 tons hay, $50	1,000
		4,646
	Box Elder Station:	
Aug., 1865.	10 tons hay, $50	500
	Kiowa:	
	15 tons hay, $50	750
	Living Springs:	
	5 tons hay, $50	250
	Rock Bluff:	
	7 tons hay, $50	350
		1,850

These losses are shown by the evidence of Thomas (page 19 of evidence) and dence of Wm. Trotter (page 34).

	Liberty Farm:	
Aug. 12, 1864.	Coach burned up	$1,200
	Elkhorn:	
Sept., 1864.	Station burned	3,500
	Sand Hill,	
Feb., 1865.	Station burned up	2,500
		7,200

These losses are established by the evidence of Captain Murphy (pp. 23, 24, 25 of evidence), and the value by the evidence given before the committee by G. H. Car (p. 35 of proof filed).

XIII.

	Losses at Julesburg:	
7, 1865.	2 bales clothing	$1,500 00
	1 mule	200 00
		1,700 00
2, 1865.	Barns, sheds, houses, warehouse, telegraph-office, blacksmith shop, destroyed by fire	35 000 00
	30 tons hay, $50	1,500 00
	3,500 sacks corn (392,000 pounds, 20 cents)	78,400 00
	Provisions and stores	2,000 00
	1 horse taken	200 00
		115,100 00

› proof in regard to this destruction of property will be found in the evidence ddle (p. 13); Thomas (p. 19); Quinn (p. 26); Brewer (p. 28); Carlyle (p. 35); les (p. 28).

	Loss at Bridger's Pass:	
19, 1865.	Flour and a Sharp rifle	$100 00
	At Sage Creek:	
22, 1865.	9 horses, $200 each	1,800 00
8, 1865.	5 horses, $200 each	1,000 00
	1 set four-horse harness	120 00
	Station and barn burt	2,500 00
		5,420 00
	At Bridger's Pass:	
26, 1865.	9 horses, $200 each	1,800 00
	8 sets single harness, $30 each	240 00
	Supplies, about	100 00
	At Pine Grove:	
9, 1865.	Cook-stove and harness, &c., say	200 00
		2,340 00
	At Sulphur Springs:	
12, 1865.	34 stage-horses, $200 each	6,800 00
	9 mules, $150 each	1,350 00
		8,150 00

ese losses will be shown by the evidence of James Stewart, divison agent (p. 30 inted proof on file).

XIV.

	Elk Mountain Station:	
1865.	22 mules, $200 each	$4,400 00
	4 horses, $225 each	900 00
	2 ponies, $50 each	100 00
		5,400 00
	Sulphur Springs Station:	
1865.	6 mules, $200 each	1,200 00
	1 horse	225 00
	Medicine Bow Station:	
1865.	2 ponies	100 00
	Corral destroyed	150 00
		1,675 00
	Rock Creek Station:	
	1 pony	50 00
	Corral destroyed	250 00
		300 00

	Cooper's Creek:	
	1 pony	[illegible]
	Corral destroyed, doors and windows destroyed, cooking and box stove destroyed	[illegible]
	Willow Springs Station:	
Aug., 1865.	6 mules, $200 each	1,
	2 horses, $225	4,
	1 pony	
	Corral destroyed	
		6,
	Virginia Dale:	
July and August, 1865.	2 mules, $200 each	
	1 mare and colt	
	8 cows, $50 each	
	1 mule killed	
	1 bull killed	
		1,
	Stonewall Station:	
August, 1865.	2 yoke of oxen, each $100	[illegible]
	Little Laramie:	
	Station and corral destroyed	3,[illegible]
		3,7[illegible]

These losses are shown by the evidence of Spotswood (pp. 32, 33, 34, 43, 44, 45, 46
The value of horses, oxen, mules, hay, grain, harness, is shown by all the testi
in the case, especially by Street, Carlyle, Spotswood, Hooker, George K. Otis,
Charles G. Otis, and General Mitchell; the value of horses fit for staging being sh
to be from $150 to $250 on each, and mules for the same purpose even higher in p
the value of harness from $100 to $120 a set; oxen as high as $200 per yoke; hay,
$30 to $80 per ton; grain, from 15 to 20 cents per pound; these prices resulting
the state of war, the great demand, and the Indian outrages on the plains. See,
evidence of B. M. Hughes, (pp. 87, 88) in regard to this point, taken by the commit

ᵊTH CONGRESS, 2d Session. } SENATE. { REPORT No. 217.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

ɪr. PLATT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1097.]

he Committee on Pensions, to whom was referred the bill (S. 1097) granting a pension to Susan Fox, having had the same under consideration, respectfully report:

That Robert M. Fox, a private in Company G, Fourth Delaware Volnteers, was killed in the service of the United States, and in the line ᵊ his duty, near Petersburg, Va., in the year 1864; that said Robert M. ox was the son of Joab Fox and Annie Fox, his wife, who died in givɪg birth to said Robert M. Fox, in the year 1840; that claimant, Susan ox, being a friend of said Annie Fox, took and reared and cared for ɪe said Robert M. Fox as her own child, and subsequently, in the year 41, married the said Joab Fox, and lived with him as his wife until s death, in the year 1873. The claimant treated said Robert M. Fox all respects as if he had been her own child, and her dependence on him for support, and his actual support of her prior to enlistment, d during his service, are fully established. A pension was granted the claimant as the mother of said Robert M. Fox, December 21, 1877, ɪ supposing at the time of her application that she was entitled to a ɪsion the same as if she had been his real mother. One semi-annual ymnent of the pension was made to her, when her name was dropped m the roll, on the ground that she was only a step-mother of the d Robert M. Fox, and she was recommended by the Commissioner of nsions to make her application to Congress for relief.

Your committee are of the opinion that the said Susan Fox intended fraud upon the government, and finding that special acts have en passed by Congress for the relief of persons similarly situated, port the accompanying bill as a substitute for Senate bill 1097, and commend that the substitute bill do pass.

A BILL granting a pension to Susan Fox.

Be it enacted by the Senate and House of Representatives of the United tates in Congress assembled, That the Secretary of the Interior be, and ɪ hereby, authorized and directed to place on the pension roll, subject ɔ the provisions and limitations of the pension laws, the name of Susan 'ox, step-mother of Robert M. Fox, late a private in Company G, Fourth elaware Volunteers, at the rate of $8 per month, to commence from ɪe passage of this act.

O

ITH CONGRESS, 2d Session. | SENATE. | REPORT No. 218.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

. PLATT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1051.]

e Committee on Pensions, to whom was referred the bill (S. 1051) granting an increase of pension to Stephen D. Smith, having had the same under consideration, respectfully report:

That the claimant, Stephen D. Smith, was a private in Company C, eventh Regiment New Hampshire Volunteers, enlisting September 3, 1861; that he was wounded in his left thigh, by a grape shot, at the harge on Fort Wagner, July, 1863; that he was taken prisoner and arried to Charleston, S. C., where his leg was amputated near the hip-oint, three days after he was wounded. Two days afterwards he was xchanged and sent to New York, his wound receiving no treatment om the time of amputation until he reached New York; that the end f the bone was not covered by the flesh, and protrudes, so that it is possible for him to wear an artificial limb. He continually suffers ain, and his health has become injured and is continually failing. He now disabled from obtaining a livelihood, and is under the care of a ysician much of the time.

His disability is permanent. He was pensioned at the rate of $8 per nth, the highest rate allowed at the time his pension was granted; d his pension has since been increased, under the provisions of subquent acts of Congress, to $24 per month.

The committee consider his case to be one of peculiar hardship, and ommend that his pension be increased to $30 per month, and that bill do pass, with an amendment striking out, in the 8th line of the , the word "seven," also the words "and fifty cents."

O

H CONGRESS, } SENATE. { REPORT
2d Session. } { No. 219.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

PLATT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 526.]

Committee on Pensions, to whom was referred the bill (S. 526) granting pension to Esther E. Lieurance, having considered the same, respectfully report:

hat the claimant is the widow of Stephen Lieurance, who was a ser-
nt in Company H, Third Wisconsin Volunteers, enlisted June 29,
1, and discharged June 18, 1865. He was severely wounded in his
shoulder at Dallas, Ga., May 25, 1864, from the effects of which
ınd he never fully recovered. He made, however, no claim for invalid
sion during his life, anddied May 5, 1875, of rheumatic fever, involv-
the heart.

[is widow, the claimant, filed an application for a pension June 3,
5, which was rejected April 16, 1878, on the ground that the disease
hich the soldier died was not the result of his wound or his military
vice. Among other evidence filed in the case is that of two physi-
ıs of good standing, one of whom treated the soldier at different times
n July 6, 1864, till the fall of 1870, and says that in 1864 the soldier's
ınd was discharging; that in July, 1865, he suffered from continued
ı in his shoulder and spine of a rheumatic or neuralgic character, and
thin and emaciated, which condition and symptoms increased in de-
ɜ until the fall of 1870, when, on account of change of residence, he
ɜed to treat him.

he other physician was called to treat the soldier in 1872, and con-
ıed his treatment until the time of his death, in 1875. He states that
ing all that period the soldier suffered from rheumatic neuralgia
sed by the wound; that the ball entered in front, passed through the
x of the left lung, lodged under the left scapula, and was extracted
n that position; that his health gradually failed from year to year,
that he died May 5, 1875, of rheumatic fever, involving the heart,
action of which had been for years impaired; and that he believes
: death resulted indirectly from the soldier's wound.

pon this evidence the case was submitted by the Commissioner to
medical reviewer, who gave an opinion that the wound contributed
ıing, directly or indirectly, to the soldier's death; and thereupon the
lication was rejected.

he committee, in view of the severe character of the soldier's wound
his continued failing health from the time he received it until he
, are of opinion that, although it may be true that the wound was
the immediate and direct cause of the fatal disease, yet the soldier's

health and constitution had become in consequence of his wound so much impaired and enfeebled, that he was in no condition physically to resist the attack of rheumatic fever, and that thus his death resulted indirectly at least from his wound. They therefore recommend that the bill do pass.

ONGRESS, } SENATE. { REPORT
Session. } { No. 220.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

ATT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1231.]

mmittee on Pensions, to whom was referred the petition of A. A. and others, praying that a pension be granted to Charlotte T. Alder- having had the same under consideration, respectfully report:

said Charlotte T. Alderman is the widow of James Alderman, ivate in Company E, Forty-second Regiment of Illinois Volun- vho died March 31, 1873.

application for a pension was rejected March 25, 1878, for the that the soldier's death did not result, as claimed, from wounds d in service. James Alderman, the soldier, was severely ed in the left shoulder and also in the left side at the battle of River, December 30, 1862, and again September 19, 1863, at the of Chickamauga, in the right temple, after which he was unable orm active duty until his discharge, June 16, 1865.

pplied for a pension during his life, which application was pend- the time of his death.

examination July 15, 1871, represented his disability as perma- nd that, in consequence of the wound in the right temple, and in side, he was totally incapacitated from labor.

ied of chronic pneumonia, resulting in an abscess of the left lung. ysician who treated him, after his discharge, until his death, s that the ball which entered his left side lodged in the pleural and that, in his opinion, it was by constant irritation of the ex- surface of the left lung by the lodged bullet that a chronic form monia, resulting in an abscess of the lung, was produced.

e is abundant testimony to show that from the time of his wound lier was disabled, and, for most of the time until his death, was to perform manual labor.

case seems to have been one of doubt in the Pension Bureau, nsidering all the evidence, the committee are of opinion that the s death was the result of wounds received in service and in line luty. They therefore recommend the passage of the accompany-

A BILL granting a pension to Charlotte T. Alderman.

acted by the Senate and House of Representatives of the United States of America in assembled, That the Secretary of the Interior be, and he hereby is, authorized ted to place on the pension-roll, subject to the provisions and limitations of ion-laws, the name of Charlotte T. Alderman, widow of James Alderman, ivate of Company E, Forty-second Regiment Illinois Volunteers.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 221.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

Mr. MCPHERSON, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1188.]

The Committee on Pensions, to whom was referred the bill (S. 1188) granting arrears of pension to Mrs. Emma M. Moore, have carefully examined the same, and report:

That they deem it inexpedient to grant arrears of pension by special act. They therefore ask to be discharged from the further consideration of the bill, and recommend the indefinite postponement thereof.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 222.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

r. FARLEY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 534.]

This is a claim for pension by Carolina Trekell, widow of Greenbury rekell.

There is no evidence that the claimant's husband was serving in the nited States Army or in any volunteer force of the State of Kansas, here it is alleged he was killed.

The claim has been rejected by the Commissioner of Pensions, and an lverse report has been made on the claim by the House Committee on ensions at a former session.

Your committee recommend that the claim be disallowed.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 223.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

Mr. FARLEY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 370.]

James W. Doxsie enlisted in 1862, and was mustered out as lieutenant in 1865. September 16, 1865, he applied for and was granted pension of $8 per month. Increased to $15 per month September 7, 1870. Increased to $24 per month September 11, 1872. Increased to $50 per month November 4, 1874. These pensions were allowed for gunshot wound in left upper arm, in abdomen, and in left breast, the ball passing through the lung.

In January, 1876, Lieutenant Doxsie was admitted into Harper Hospital, Detroit, Mich., for care and treatment of the wounds received in the service in line of duty, and while in a greatly debilitated condition was attacked with varioloid May 6, 1876, and died May 20, 1876. The only question appears to be whether he died of varioloid or of debility resulting from wounds. The Commissioner of Pensions seems to have regarded the case as somewhat difficult, and caused a special agent of the Department to examine the surgeon in charge of the hospital at the time of sickness and death.

It would seem from the regular and frequent increase of the pension during the lifetime of the pensioner that the injuries were constantly becoming more troublesome, and the evidence shows clearly that his condition became so debilitated that the constant use of tonics was necessary to support life. The use of these tonics had to be suspended during treatment for varioloid.

The hospital surgeon testifies that he would have died of his wounds in all probability in a very few months had not varioloid intervened.

It is no doubt true that varioloid intervened and hastened his death, yet the evidence is equally clear that he would have died within a year of the injuries received in battle had not the disease intervened, and it is quite as certain that he would have survived the attack of varioloid had he not been so badly reduced by his wounds.

From all the facts, your committee are of the opinion that the accompanying bill, granting a pension to Phœbe C. Doxsie, should pass.

O

'TH CONGRESS, 2d Session. | SENATE. | REPORT No. 224.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

r. FARLEY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1232.]

e Committee on Pensions, to whom was referred the petition of Elizabeth Sutherland, widow of Hosie Sutherland, deceased, formerly of Captain Baiton's company, Colonel Francisco's regiment, beg leave to report as follows:

It appears from the evidence that Hosie Sutherland was drafted and rved in the war of 1812, from February 8, 1815, to March 7, 1815, when was discharged. The treaty of peace was ratified March 17, 1815, and e soldier served 10 days before and 18 days after the ratification.

The act of March 9, 1878, requires that soldiers of the war of 1812 ust have served 14 days to entitle them or their representatives to a nsion. As the soldier served 28 days in the war before being disarged, it is thought that this case comes within the scope and spirit of e law.

Your committee, therefore, recommend the passage of the accompany-g bill.

O

ɔONGRESS, } SENATE. { REPORT
Session. } { No. 225.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

ITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1233.]

:he petition of Frederick Weller, of Leavenworth City, Kans., a of the war of 1812, the committee find that the applicant was a › in Capt. Baher Johnson's company of Colonel Cramer's regiment yland volunteers, war of 1812. That in August, 1872, he applied ension, but as no rolls of said company or regiment were on file in jutant-General's Office, he was required to furnish the evidence of t two comrades who served with him. In December, 1872, he fur· the evidence of Thomas R. Ellis, of Seneca County, Ohio, who with him, and filed his own affidavit, but owing to lapse of time ıot furnish the evidence of another comrade. Subsequently, to February, 1873, he ascertained the whereabouts of another com· tidge by name, to whom he wrote and received his answer, stating › would sign the necessary affidavit, as he distinctly recollected vice; that he caused the affidavit to be prepared and forwarded ge, but before it was received Ridge died suddenly, a fact shown etter from his son, William Ridge, filed March, 1873, with the ent of the claimant that he was unable to furnish the evidence other comrade.

claim was rejected for want of this evidence of a second comrade d. The committee believe this to be a meritorious claim of an ıan of 91 years, whose good name and character are vouched for ıerous signatures of his fellow-citizens of Leavenworth, and as rit if not the letter of the law has been met, they recommend the e of the accompanying bill.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 226.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 691.]

The Committee on Pensions, to whom was referred the bill (S. 691) for the relief of Jared Gardner, having examined the papers accompanying the bill and petition, find that the claimant alleges disability from injury of his leg, received while guarding prisoners at Johnson's Island, in 1864. He was discharged in 1865, and made application for a pension in 1878, which was refused by the Pension Bureau because no disability exists from the wound received.

The evidence shows that the wound was received at the time stated, in some manner unknown to the claimant; that he was not treated in hospital, but was treated in his quarters; that when discharged no record of disability was made; that medical examination shows no diseased condition of the leg at the seat of injury, the cicatrix being firm, nonadherent, and free from tenderness. The claimant is disabled, however, from an ulcer on the leg, but this ulcer is situated on the inner and lower surface of the limb, while the wound was a flesh wound on the upper and external surface of the leg.

Medical and other testimony is on file establishing the existence of disability from the ulcer, which has from time to time been troublesome for several years.

No application for pension was filed until June, 1878.

The committee feel constrained to report adversely on the bill and petition, and ask that they be indefinitely postponed.

'TH CONGRESS, 2d Session. } SENATE. { REPORT No. 227.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 18:0.—Ordered to be printed.

r. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 955.]

The Committee on Pensions, having examined the bill (S. 955) granting pension to William S. Fultz, find that he was enlisted in 1861, and disarged July, 1865; that he claims a pension on account of disability om hemorrhoids, contracted while in the service, from lifting heavy nbers and building breastworks, near Corinth, Miss., in June, 1862, d has continued to suffer from the same cause up to the present time. s claim was rejected, because there was no medical testimony to suprt the claim.

Affidavits of several comrades are presented, testifying to the facts of rvice, and reputed illness from piles or *rupture*. But the hospital cords show no treatment, nor can he furnish the testimony of the gimental surgeon establishing either the treatment or the existence of e disease.

The committee cannot recommend the passage of the bill, for this and the following additional reasons: The soldier alleges as the cause his disease, hard labor and lifting heavy timbers; hemorrhoids are not nally produced by such efforts, but have their orign from entirely differt causes. Again, the soldier served for three years afterwards, without atment, and was discharged, suffering under no disability, in 1865, d made no application for pension until 1877, twelve years after disarge. The affidavits of his family and of the comrades who served e generally vague, and none establish the fact of the disability from rsonal knowledge of the actual condition of the party, though several e the phrase that they knew it "from personal knowledge"; and yet me testify to piles and some to rupture, two entirely distinct and difrent diseases. The identity of expression and phraseology in the merous affidavits of persons residing in varied and distant localities, ows that these affidavits have been prepared and furnished for sigature, and consequently detracts considerably from their value as vidence.

The committee therefore recommend that the bill be indefinitely postoned.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 228.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1185.]

The Committee on Pensions, to whom was referred the bill (S. 1185) granting a pension to Jesse F. Phares, have examined the same and the papers therewith submitted, and report:

The facts in the case are few and clearly proven: At the outbreak of the rebellion was a resident of Randolph County, in the State of Virginia; that he entered the service of the government about the month of June, 1861, as a scout, serving under Generals McClellan, Milroy, Kelly, and others, and by reason of his intimate knowledge of the country and his intelligence, zeal, and daring, rendering very valuable service to the Union cause. In April, 1863, the Confederate General Imboden advanced upon the Union forces at Beverly, W. Va., commanded by Col. George R. Latham, commanding Fifth West Virginia Cavalry. In the advance Phares, who was then on duty outside the Union pickets, was surprised by a party of Confederate troops, and refusing to halt when ordered, was shot through the body, but retained his saddle until he reached the Union lines. The following are extracts from the affidavits of Col. George R. Latham, Fifth Regiment West Virginia Cavalry (Union), and of Lieut. Col. Elihu Hutton, Twentieth Regiment Virginia Cavalry (Confederate).

Colonel Latham says:

On the 23d day of April, 1863, I was in command of the Federal forces stationed at Beverly, W. Va., and said Phares, then scouting outside my pickets, was cut off by a party of the enemy then advancing under General Imboden to attack me, and in endeavoring to dash past them was badly wounded by a musket-ball passing through his body, through the lungs, from the effects of which he is almost wholly disabled, and failing rapidly in strength and general health. Though so badly wounded, he retained his saddle until he reached my pickets, and gave the first intimation that I had of the advance of the enemy. I was compelled to evacuate Beverly, and Phares fell into the hands of the enemy. He had at the time several thousand dollars worth of goods and personal property, all of which was taken from him, leaving him and his family in very destitute and distressed circumstances, from which they have been unable to recover.

Lieutenant-Colonel Hutton says:

During the late civil war I was lieutenant-colonel of the Twentieth Regiment Virginia Cavalry (Confederate service), and served principally on the West Virginia frontier, where it was well known who were acting as scouts and guides for the Federal forces in that vicinity, and said Jesse F. Phares was well known to be one of the most active and dangerous scouts and guides operating against us. His knowledge of the country was thorough; he was *smart*, daring, and vigilant, and capable of great endurance. In consequence of the knowledge we possessed of this fact, every possible

exertion was made on our part to capture him, but without success until the 23d of April, 1863, when General Imboden advanced upon the Federal forces then stationed at Beverly, commanded by Col. George R. Latham.

In order to cut off all events that might be outside the Federal pickets, we sent night a party of men through the woods to gain the road near the outside Fed pickets post before daylight on the morning of April 23, 1863. About daylight Phares, who was thus cut off, approached said party of men on horseback and ordered to halt, but dashed forward and past the men, when he was fired upon them, one ball taking effect, passing through his body—through the lungs—from effects of which he is now almost wholly disabled. He returned his seat, hove until he reached the Federal picket and gave information of our advance.

Beverly was evacuated the same day by the Federal forces and occupied by Confederates, and Phares fell into our hands.

He was cared for by me personally about fifteen days, but a large amount of goo general merchandise, groceries, &c., household furniture, and other personal proper to the value of several thousand dollars, fell into Confederate hands and was used destroyed by them, leaving him and his family in very destitute circumstances, which condition, principally in consequence of his disability, they remain to this tim He has four children living, and one, his oldest, a daughter, died of consumption, 1870, induced by hardships and exposure, and his wife is worn down by care and labo

Said Phares is about 43 years of age, and has been for several years failing rapidl in physical strength, in consequence of the wound above referred to.

J. R. Blair, an examining surgeon for the Pension Office in the State of West Virginia, certifies, under date of December 24, 1879, that he has carefully examined Phares and finds "that his left hip was entered by a musket-ball, which passed upward through the region of the lower part of the left lung and out near the stomach. The effect of the wound is to weaken and partially paralyze the entire left side, and, in my judgment, produces at least a two-thirds disability, which will increase." The petitioner has not made application for a pension to the Pension Office, as under the uniform ruling of that office he was not entitled to a pension for the reason that he was not a regularly enlisted soldier.

For the same reason the committee do not feel at liberty to report in favor of the bill, and ask to be discharged from its further consideration.

6TH CONGRESS, 2d Session. } SENATE. { REPORT No. 229.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

dr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1186.]

e Committee on Pensions, to whom was referred the bill (S. 1186) granting a pension to John Snider, of Randolph County, West Virginia, have xamined the same and the papers therewith submitted, and report:

The certificates of Col. George R. Latham, of the Fifth Regiment est Virginia Cavalry Volunteers (Union), and of Brevet Maj. Gen. B. F. ly, show clearly that John Snider, during the early part of the war the rebellion, acted as a scout for the Union Army; that he in that acity was "vigilant, bold, active, and reliable"; that while so serv- he was twice severely wounded (gunshot wounds), once in the left in and again in the left hand; and the certificate of Colonel Latham t "from the effect of these wounds he is wholly disabled from follow- his usual avocation of farming and is dependent upon his friends a support."

An application for pension to the Pension Bureau would have been less, for the reason that Snider was not an enlisted man. He is not itled to a pension under the law, and your committee do not feel at rty to report in his favor. They ask to be discharged from further sideration of the bill.

O

ᵓTH CONGRESS, 2d Session. | SENATE. | REPORT No. 230.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

:. CALL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 562.]

e Committee on Pensions, to whom was referred the petition of Capt. Thornton Smith, praying for an increase of pension, respectfully report as follows, viz:

That the said Thornton Smith was a captain and assistant quarter-aster in the United States Volunteers from August 3, 1861, to June , 1864. That in March, April, and May, in the year 1864, he served der General N. P. Banks in the Red River campaign in Louisiana, ing under the immediate command of General Thomas Kilby Smith. hile there he contracted the diseases which subsequently resulted in s total disability, viz, chronic diarrhea and muscular rheumatism. at prior to his service on the Red River he was a strong, healthy n, weighing about 186 pounds, as proven by the affidavits of three in-nate friends. That at present he is in a very weak physical condition d totally incapacitated for manual labor, weighing about 125 pounds. e physician testifies as to his treatment of him in 1864, for severe ronic diarrhea. Another testifies as to his good health before the d River campaign, and his diseased condition subsequent. Another stifies as to his treatment of Captain Smith, from 1867 to 1877, for gen-al nervous exhaustion and alternate constipation and diarrhea.

Another witness, who traveled with him to his post of duty in 1864, stifies as to his good health before the Red River campaign and his seased condition from that time to this.

The report of the Army surgeon who attended him in New Orleans er his return from Red River, and on whose recommendation he was anted sixty days leave of absence, shows that he was then suffering m chronic diarrhea.

The secretary of the medical board who examined him for an invalid nsion reports that Captain Smith is suffering from *true* chronic diar-ea.

General Kilby Smith, under whose command the applicant served, stifies in the most unqualified manner as to the service and the severe ness of Captain Smith, and as to the total disability resulting to *him-f* and to others from the same disease, contracted in the same place d at the same time, viz, during the severe attack and bombardment r three days upon the gunboats of the Union Army on the Red River 1864.

Your committee therefore consider that Captain Smith is totally dis-led, and recommend the passage of the bill herewith reported.

O

: CONGRESS, } SENATE. { REPORT
l Session. } { No. 231.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

NGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 982.]

ɜncer W. Tryon, private Company E, Fourteenth Regiment, Illinois nteers, transferred to Invalid Corps (S. O. No. 9, Headquarters ıteenth Army Corps), applied for pension for loss of left arm by gun-wound. He enlisted 25th May, 1861, and was discharged 24th May, His application was rejected for the reason that he was not in ne of duty when he received the wound that resulted in the ampu-ı of his arm. It appears from the evidence that on May 14, 1863, the regiment was embarked on a transport at Memphis, waiting s to depart, Tryon was permitted to leave the boat by the officer ı company, with instructions to return by 6 p. m., the hour fixed for :ture. The transport sailed earlier than was anticipated, and as ı was passing hastily toward the levee he was ordered to halt by rovost-guard. Not hearing the challenge he was fired upon by the l, receiving the injury for which he asks a pension. The evidence ɜ that Tryon was a good soldier and a quiet, inoffensive man. The ıittee recommend that the bill do pass.

O

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 232.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 801.]

Martha E. Brown, whose maiden name was Frankham, married Joseph Flenner June 17, 1855, who was accidentally drowned in the Ohio ver, near Cincinnati, about September 21, 1861.

He appears to have been engaged in recruiting service, but no record his military history accompanies the papers in the case. September 1870, his widow married C. H. Brown, and now asks that she may re-ve arrears of pension from the death of her first husband till her mar-ge with his successor, and that Jesse W. W. Flenner may receive ears from the death of his father till he reached the age of sixteen ırs.

n the absence of all evidence requisite to establish the original claim, ıny existed, the committee are indisposed to depart from all prece-ts, and as no application has been made at the bureau, they recom-ıd that the bill do not pass.

O

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 233.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 810.]

This claim was rejected at the Pension Office for the reason that the se of the soldier's death did not originate in the service and line of ty. He died at Richmond, Va., February 18, 1867. He was under est at the time for some breach of discipline and awaiting his trial. had been drinking heavily for several days and was found dead in bed. An inquest was held and the verdict of the jury was that he ne to his death by his own act, having taken an overdose of lauda- n. The evidence appears to be indisputable, and the committee rec- mend that the bill do not pass.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 234.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 639.]

John G. McDonald was an acting assistant surgeon under orders at Petersburg, Va., to report to a detachment of the Fifty-fifth Pennsylvania Volunteers. While carrying some books up the steps of a building he fell, fracturing his left arm near the shoulder. He was treated in hospital three or four days and then attended to himself. His application for pension was not filed till 1876. The applicant is a practicing physician, and there is no evidence whatever that he labors under any disability from the injury. The committee recommend that the bill do not pass.

O

TH CONGRESS, 2d Session. | SENATE. | REPORT No. 235.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1017.]

Jerry Robinson was commissary-sergeant First Regiment United States lored Troops, and is now receiving pension for inguinal hernia. His plication for increase was rejected by the Commissioner of Pensions er careful examination by the medical referee. No new evidence is ered in support of this application.

The committee must presume that the action of the Pension Office s correct, in the absence of any evidence to the contrary.

They recommend that the bill do not pass.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 236.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 591.]

Kelley was corporal Company B, Sixth Regiment, Maryland Volunteers. He was wounded on the shin of his left leg in October, 1864, at Cedar Creek. He applied for pension June 15, 1878, for disability alleged to have resulted from this wound.

The examining surgeon found a scarcely perceptible scar with no adhesion nor inflammation, and reported that there could be no disability from this source.

The committee find no ground to reverse the action of the Commissioner in rejecting the claim, and recommend that the bill do not pass.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 237.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

Mr. FARLEY, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Dr. Mary E. Walker, for increase of pension, beg leave to make the following report:

The petitioner was assigned to duty as hospital nurse, March 12, 1864, after an examination by a board of medical officers convened at Chattanooga, who reported that she was not competent to perform the duties of an assistant surgeon, her knowledge of medicine and surgery being very little, if any, more than that of the ordinary housewife.

It appears that while acting in this capacity she wandered outside of the lines, and was taken prisoner, in accordance with a preconcerted arrangement entered into between her and the Federal officers, the petitioner thinking that she might obtain information while in the hands of the enemy which would be of value to the Federal officers.

She returned in about four months, and, on recommendation of General George H. Thomas, the War Department allowed her $80 per month from March 11, 1864, to August 24, 1864. She then returned to Louisville, and was employed a few months in the female prisoners' hospital, receiving $100 per month for her services. The petitioner claimed to suffer from weakness of the eyes, produced by insufficient food and exposure while a prisoner, and upon the report of a board of examining surgeons of the Pension Bureau, she was allowed, and now receives, $8.50 per month, that amount being one-half pension for a contract surgeon. She was regarded as constructively in the service as a contract-surgeon, by virtue of the recommendation of General Thomas above referred to, which recommendation was acted on by the War Department. There was some doubt expressed in the medical evidence as to whether the weakness of the eyes was occasioned by exposure in the service, from age, or other causes.

No evidence is offered in addition to that which went before the Pension Bureau. From all the facts in the case, your committee recommend that the prayer of petitioner be not granted.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 238.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1880.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions having examined the petition and accompanying papers of Hugh Wilson, praying to be allowed a pension for service in the war of 1812, find that his application was rejected by the Pension Bureau for want of evidence of service.

As this defect still exists, and there is no evidence whatever of the service alleged except the statement of the petitioner, the committee ask the indefinite postponement of the case.

O

TH CONGRESS, 2d Session. | SENATE. | REPORT No. 239.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1880.—Ordered to be printed.

r. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 98.]

e Committee on Military Affairs, to whom was referred the bill (S. 98) o provide for the settlement of accounts with certain railway companies herein named, respectfully submit the following report:

A report was prepared by Mr. Grover, of the committee, for submission the committee. Owing to his absence on account of sickness, his port was not presented or acted on. A careful examination of said port has been made by the committee, and the same is adopted as part this report, as follows:

his is a bill authorizing the Secretary of War and the Attorney-General jointly to ust and finally settle the accounts of the United States with such railway compa- s in the Southern States as received property from the United States in the years 5 and 1866, and which have made full payment for the same, upon the basis of a ner adjustment, but which basis has been changed by the United States in its final lement with other railway companies who held property of like character as that ich formed the basis of the accounting with the roads herein provided for.

bill similar in character to this was introduced in the House of Representatives ring the last Congress, and was referred to the Committee on the Judiciary, and by t committee was favorably reported on, June 4, 1878 (H. Rep. 909, 2d sess. 45th g.), as follows:

[H. Report No. 909, 45th Congress, 2d session.]

. HARTRIDGE, from the Committee on the Judiciary, submitted the following report (to accompany bill H. R. 5123):

e Committee on the Judiciary, to whom was referred the bill (H. R. 951) entitled "A bill o provide for the settlement of accounts with certain railway companies," have had the same nder consideration, and submit the following report thereon:

his bill provides for an adjustment and settlement of the accounts of various rail- y companies with the United States on the same basis that has been established allowed to other railway companies by various acts of Congress. The questions olved have been so thoroughly investigated by several Congresses, and have been uniformly favorably reported and acted upon, that the committee deem it necessary report here only such an outline of facts as is requisite for a proper understanding he bill under consideration.

he close of the late war left in the hands of the United States Government a vast ount of rolling-stock and railway material that had been used in operating the itary railroads in the South. When the railways were transferred to the corpora- s owning them, they were almost completely stripped of rolling-stock and supplies h which to be operated, and the corporations had neither money nor credit to ob- n them. The property in the hands of the government was adapted for use only on uthern railroads, and it was vital to the prosperity of the whole country that these at avenues of internal commerce should be opened at once. Under these circum-

ever, it became apparent that the officers of the government were determin
sist on a literal performance of the bonds, and when, instead of allowing the co
their regular tariff rates for the transportation of troops and supplies for the
ment, they only allowed them an arbitrary rate of less than one-half their tar
companies found it almost impossible in their impoverished condition to m
requirements of their bonds, and the matter was brought to the attention of Co

After full investigation and exhaustive reports by the Thirty-ninth and F
Congresses, the Forty-first Congress, in accordance with the recommendatio
Committee on the Judiciary (House Report 78, Forty-first Congress, second s
relieved some of the companies that had failed to pay any portion of their bon
the accounts against them were adjusted and largely reduced in amount.
Forty-third Congress the Committee on the Judiciary (House Report 101, Fort
Congress, first session) recommended the passage of a bill to extend to all th
companies the same method of settlement that had been granted by the act of
3, 1871, which bill was, however, amended so as to apply only to few compani
had *failed to make their payments* in accordance with the terms of their bonds, in
form it was passed and approved February 27, 1875.

Under the provisions of these two acts of Congress *all* of those companies th
failed to meet their bonds were granted relief, and the original accounts of t
them were adjusted and reduced in amount. The injustice of thus extending
to those companies that had evaded and failed to make payments, and giving
sideration to those which by strenuous exertion and great sacrifices had pai
obligations in full, was so manifest that there was no opposition in the Forty
Congress to the passage of a bill reported by the Senate Committee on Military
(Senate Report 225, Forty-fourth Congress, first session), directing that the set
made with the Western and Atlantic Railroad of Georgia (which had paid its
tions in full), be reopened and adjusted on the same basis as extended by th
March 3, 1871, to other companies that had failed to pay their indebtedness
House Committee on Military Affairs also favorably reported a bill to extend th
consideration to *all* companies that had paid their original bonds in full (House
832, Forty-fourth Congress, first session).

It therefore appears that Congress has extended relief to *all* those compan
failed to meet their payments, and to *one* company that met its obligations in f
no good reason is known to the committee why the same relief should not be ex
to the remaining companies upon the same basis. In this connection the com
have considered whether the relief extended by the acts of March 3, 1871, and
ary 27, 1875, could be considered as compromises of bad debts, and that there
reasons which led to their enactment should not be applicable to those com
which have made full payment, and we find that the pecuniary condition o
companies was in nowise different from that of the companies which by str
exertions paid their obligations. We also find on this point very strong expres
opinion from Quartermaster General Meigs. In his annual report for 1870 s

sed and settled under the acts of March 3, 1871, and February 27, 1875: * * *
is no reason known to this office why favors should be shown to one road that
t shown to other roads similarly situated."
s represented by the companies seeking relief under this bill that they are en-
to it not only for the reasons that it has been extended to a majority of the com-
similarly situated, but also on original grounds of equity and justice. They
, and we are forced to admit that our investigation of the subject confirms the
of their assertions, that the property was overvalued when transferred to them;
hey were aware of and complained of the overvaluation at the time; but that
ccepted it for the reasons that they were led to believe that they would never
led upon to pay for it. On these points we cite a portion of the testimony and
o the various reports named for fuller information.

OVERVALUATION OF THE PROPERTY.

F. J. Crilly, quartermaster, United States Army, who had charge of military
ds, and under whose directions the largest part of this property was sold, tes-
as follows (see House Report 34, Thirty-ninth Congress, second session):
e appraised prices obtained for the property were much higher than it (the
ment) could have obtained otherwise. For instance, the engines which were
em for $17,000 would not have brought $10,000. (Page 152.)
think we realized probably $3,000,000 more by selling it in that way than we
by selling it in any other shape. (Page 151.)"
as also further testified by him that the property not taken by the railroad
nies was sold at public auction at about one-half the valuation made by the
sers.
S. R. Hamill, in charge of military railroads, in his report of September 30,
House Ex. Doc. 73, Fortieth Congress, second session, page 3), said:
e material sold under executive orders to the companies had been appraised at
ar more remunerative to the government than could have been obtained by sale
t public auction."
Albert Fink, *one of the appraisers*, said (Ex. Doc. 57, Senate Reports, Forty-
Congress, first session, page 9):
lo not hesitate to say, that had the rolling-stock of the government been sold for
in the ordinary way of auction sales, to the highest bidder, it would not have
ht one-half of the valuation put upon it by the commission."
Walter McQueen, also one of the appraisers, said (page 9):
r carefully considering Mr. Albert Fink's letter, dated November 23, 1868, I
oncur in nearly all his statements in regard to the appraisal of government's
otives and cars."
n the reports embraced in Ex. Doc. 155, House Reports, Thirty-ninth Congress,
ssion, we extract a few illustrations of the prices charged by the government:
e hundred and fifty-four locomotives were appraised and sold in the military
n of Tennessee, at average prices only about 18 per cent. less than their origi-
st. (Page 412.)
ere was sold to the Orange and Alexandria Railroad one hundred and fifty-
car-wheels for $4,424, which cost the government only $3,630.84, and seventy-
ar-wheels for $2,054, which cost only $1,815.42. (Page 439.)
ere was sold to the Atlantic and North Carolina Railroad two locomotive-en-
for $29,000, that cost the government only $18,000, and twenty flat cars for
), that cost only $9,527.86. (Page 444.)
ere was sold to Wilmington and Weldon Railroad two locomotive-engines for
), that cost the government only $22,250; forty-five flat cars for $23,700, that
nly $21,437.55; and ten rack cars for $5,000, that cost $4,763.90. (Page 442.)"
House Report 34, Thirty-ninth Congress, second session, we find the following
ent on page 439:
nount paid for engines and cars for military railroads in North Carolina, $230,449.20.
was realized by the United States from the sale of these cars and engines
71.84."
the purpose of carrying into effect the act of February 27, 1875, the Secretary of
ppointed the following board of officers; Col. R. B. Marcy, Inspector-General;
. M. Dunn, Assistant Judge-Advocate-General; and Maj. M. I. Ludington,
rmaster, who, after a most thorough investigation of the whole subject, re-
as follows (see Ex. Doc. 57, Senate Reports, Forty-fourth Congress, first ses-
age 17):
e board, after a full consideration of the subject in all its bearings, thinks that
luation of the property was intended, and was considered at the time by those
ade it, to be a fair valuation; yet, if measured by the value of the property
been sold for cash at the time, the board is brought to the conclusion, and

reports as its opinion, that there was an overvaluation of fully 25 per cent. in the appraised prices."

This report was accepted and approved by the Secretary of War and Attorney-General, and action taken on it by them in accordance with the provisions of the act of March 3, 1871.

We also quote a portion of the testimony that we find on the point that the companies

BELIEVED THAT THE BONDS WOULD NOT BE ENFORCED.

Col. F. J. Crilly, in charge of military railroads, under whose direction over two-thirds of the property purchased was transferred, said in his report (see House Report 34, Thirty-ninth Congress, second session, page 154):

"*If* the companies are held to a strict compliance with the terms of their bonds."

And in his testimony (page 152):

"Q. Do you know any reason why these companies should not be held to their bonds?—A. I think it should be made the subject of careful examination."

Quartermaster-General Meigs, in his testimony (page 266), said:

"When this order went into operation I hoped the States would be soon restored to their original condition in the Union, and I thought it likely that if they made application to Congress they would be treated liberally, and might even be *eventually released from their bonds.* I did not suppose we would get much money from them, as I supposed that Congress, in its discretion, in order to aid in re-establishing trade and prosperity, *might think fit to relieve them from these claims.*

"Q. Was any intimation given to these companies that such would be the case?—A. I might have expressed the opinion, in discussing the case with them, *that Congress would possibly or probably do so,* but the executive branch of the government could not. That was my impression at the time, and I always talked frankly with them. I wished to know their sentiments, and had no desire to conceal my own views or opinions."

The Committee on the Judiciary of the Forty-first Congress, in their report, in alluding to the above testimony of Quartermaster-General Meigs, very properly and pertinently said (House Report 78, Forty-first Congress, second session, page 4):

"If an officer of the government, at the time he was executing the bonds, made the explanations and held the views which seem to have possessed General Meigs, and as he says he did not refrain from frankly expressing such views talking with the officers of the road, it may well be imagined that the company might have taken property, rolling and other stock, at a valuation much enhanced from the actual price, and that the appraisers might have been quite careless in the valuation affixed to property, they being officers of the government, when their chief believed that the property never was to be paid for, and the president of the road, in signing the bonds, believed they never would be exacted."

The committee, in deciding to recommend the passage of the present bill, do not express any opinion on the policy that has been adopted. Congress, by the adoption of numerous reports and the passage of three separate acts, has irrevocably established the principles that must now guide us. It has ceased to be a question of the *original* equities between the government and these railway companies, and is now simply a question of *existing* equities. The total amount of purchases by all the railway companies was $7,556,033.95. Of this amount $5,139,907.30 of the purchases have been adjusted under the various acts of Congress. The committee cannot conceive any reasons under which the adjustment of the remaining amount can be refused or avoided.

We report the accompanying bill as a substitute for House bill No. 951, and recommend its passage

A bill of similar character (S. 457) was introduced in the Senate at the last Congress and was referred to the Committee on Military Affairs. On the 10th of December, 1878, Mr. Spencer, from the Committee on Military Affairs, submitted a favorable report thereon, in which he adopted in full the House report of the Judiciary Committee on the same subject hereinbefore set forth. The House Committee on the Judiciary and the Senate Committee on Military Affairs of the last Congress appear to have examined the entire subject involved in this bill with great care, and arrived at similar conclusions. They both recommend the measure as a matter of justice and fair dealing between the Government of the United States and the railway companies involved. The facts of the case have also been before examined by committees of previous Congresses, as shown by Mr. Hartridge's report, hereinbefore set forth. Upon a further review of the testimony taken and the records adduced in previous hearings of this matter by the several committees of both Houses of Congress who have considered it, your committee are of opinion, and therefore report that this bill ought to be favorably entertained by the Senate, and they recommend the passage of the same.

l number of roads on which legislation has been had and total amount of purchases, &c.

ount of original purchase		$7,571,486 00	Report of Q. M. Gen., 1868.
ct of March 3, 1871, provided for the adjustment of—			Stat. at Large, No. 16, p. 473.
e Nashville and Chattanooga	$1,556,551 73		
e East Tennessee and Georgia	366,183 02		
e East Tennessee and Virginia	265,665 65		
e Nashville and Decatur	405,193 92		
Total	2,593,594 32		
Act of February 27, 1875, provided for the adjustment of—			Stat. at Large. No. 18 p. 335.
e Alex., Loudoun and Hampshire	62,592 96		
e Edgefield and Kentucky	114,772 86		
e McMinnville and Manchester	46,508 54		
e Mobile and Ohio	505,143 70		
e Memphis, Clarksville and Louisville	337,032 36		
e Memphis and Little Rock	153,287 47		
Nashville and Northwestern	525,400 26		
South Branch Mississippi Pacific	57,115 24		
Selma, Rome and Dalton	183,276 49		
Knoxville and Kentucky	12,335 62		
Total	1,997,465 50		
Act of March 3, 1877, provided for the adjustment of—			Stat. at Large, No. 19, pp. 402, 403.
Western and Atlantic	$472,944 66		
usted under act March 3, 1871	2,593,594 32		
usted under act February 27, 1875	1,997,465 50		
usted under act March 3, 1877	472,944 66		
Total under the various acts		5,034,004 48	
Leaving total on which there has been no legislation		2,507,481 52	
he settlement made with the railroads under the act of March 3, , as follows:			Report of Q. M. Gen., 1877, p. 146.
Nashville and Chattanooga—			
inal purchase	$1,566,551 73		
rest, &c	617,965 82		
		2,184,417 55	
ments on account in cash or otherwise up to date of mpromise		396,667 22	
Balance due United States on purchase		1,787,740 33	

ch was compromised by the payment of $1,000,000 of railroad company's bonds, having ten and twenty s to run, at 4 per cent. interest. This shows an ement of $787,740.33, to say nothing of the difference een the par value and market value of the bonds, also the exceedingly low rate of interest which, if n into consideration, counting the interest that the would have to pay for money, say, 7 per cent. in est alone, would be a saving to the company of ,000, added to the cash discount on the bonds, would ly double the abatement appearing in this statement.

The East Tennessee and Georgia, the East Tennessee and Virginia consolidated:			
inal purchase	$631,838 67		
rest, &c	284,617 30		
		916,455 97	
ments on account in cash or otherwise up to date of mpromise		$318,980 84	
ance due United States on purchase		597,475 13	

Which was compromised by the payment of $5,000 cash and $190,000 railroad company's bonds having ten and fifteen years to run. This shows an abatement of $402,475.13 exclusive of the discount on the bonds and interest in favor of the company.

Report of Q. M. Gen., 1877, p. 146.

The Nashville and Decatur:

Original purchase	$405,193 92	
Interest, &c., up to date of settlement	144,710 34	
		$549,904 26
Total payment in cash and otherwise		248,473 39
Balance due United States on purchase		301,430 87

Which was compromised for $70,000, $5,000 cash and balance in ten years. Abatement in this instance $231,430.89.

The roads enumerated above had paid but a small proportion of their indebtedness, and under the act of March 3, 1871, were accorded the relief on account of the overvaluation of the property purchased and also on account of the insufficiency of the rate allowed for transportation while they were making their payments to the government. It cannot be urged that the compromise was made upon the ground of bad debts, because the financial condition of these roads was superior to that of the majority of the roads which purchased material under the orders of August 8 and October 14, 1865, and they are to-day among the most prosperous and financially sound corporations of all the original purchasers. On the other hand, the corporations to be benefited by the bill now before your committee (S. 98) are, with one or two exceptions, struggling under heavy indebtedness, having incomes barely sufficient to maintain themselves. In the first instance the relief afforded to the roads under the act of March 3, 1871, added to their prosperous condition and relieved them of the burden of indebtedness that had been imposed upon them by reason of the overvaluation and insufficient credits for service performed. In the latter case, the roads now seeking relief having been forced to meet their obligations and promptly pay their bonds according to stipulations, added to the burden of their indebtedness, and sacrificed the improvement of their property to the payment of their obligations, which were regularly and rigidly demanded.

Stat. at Large, No. 19, pp. 402, 403.

THE WESTERN AND ATLANTIC RAILROAD, OWNED BY THE STATE OF GEORGIA.

This road has paid its indebtedness in full, having made its last payment October 16, 1867.

Under act of March 3, 1877, the account was reopened and readjusted upon the basis and plan of settlement accorded to the roads benefited under act of March 3, 1871. In this case—

The original purchase was	$472,944 66
The interest, &c	70,194 71
Total	543,139 37

Q. M. Gen.'s report, 1877, pp. 120, 121.

Upon reopening and readjustment of the amount $199,038.58 was refunded to the State of Georgia.

The abatement allowed to the roads under the act of March 3, 1871, was—

To the Nashville and Chattanooga, over 36 per cent. of the original principal and interest thereon. To the East Tennessee and Georgia, and East Tennessee and Virginia, nearly 44 per cent. To the Nashville and Decatur, over 42 per cent.

If the payment in bonds and the low rate of interest to be paid thereon were considered, the above percentages would be greatly increased.

The amount refunded the Western and Atlantic Railroad under act of March 3, 1877, was nearly 37 per cent.

The plan of settlement adopted in the case of this road on reopening the account in readjustment was as follows: An abatement of 3¼ in valuation of property. An abatement of the difference between 7½ per cent. and 6 per cent. interest on debits and credits. An allowance of 50 per cent. additional for the amount of transportation credited as payment upon the bond previous to March, 1867.

bill 98, now before your committee, was reported as a sub-
rom House Judiciary Committee, Forty-fifth Congress. Bill
y introduced provided for settlement with all roads that had
ir bonds and were similarly situated with the Western and At-
on same basis and plan of settlement accorded to that road
t of March 3, 1877. The committee reported as a substitute
ent bill, which reduces and restricts the abatement on the valu-
the property to 25 per cent.

above is all of Mr. Grover's report.

subject has been so fully presented with substantial concurrence
vs, by committees of both Senate and House in different Con-
, that the committee feels confidence in the propriety of its
nendation.

he Forty-first Congress, third session, Mr. Thayer, February 7,
rom the Committee on Military Affairs, on behalf of that commit-
esented report No. 349, to accompany House bill 996, providing
collection of debts due the United States from certain railroad
ations, and uses, on page 2 of the report, the following language:

ears that after the restoration to the original companies by the President,
e advice of Mr. Secretary Stanton, of the various Southern railroads which
used by the United States during the war, and after the sale to the com-
f the rolling-stock which had been used thereon, differences and controversies
tween the companies and the government relative to the amounts, times, and
f payment for such rolling-stock, the companies owing the heaviest debts
; that the bonds executed by their officers were given under military orders,
e therefore void; that the property delivered to them was overvalued by the
boards, and setting up their inability to make prompt and full payment, by
f their embarrassed condition and their prior mortgage indebtedness to the
Tennessee. They also claim large offsets and allowances, which, with ap-
eason, they aver they were encouraged by Major-General Burnside, Major-Gen-
mas, and Quartermaster-General Meigs to believe would be allowed.
differences and controversies have resulted in suits brought by the govern-
ainst the East Tennessee and Virginia Railroad, the East Tennessee and
Railroad, the Nashville and Chattanooga Railroad, and the Nashville and
stern Railroad, which suits are now pending in the circuit court for the east-
ict of Tennessee.
of the equities set up by the roads appear to be well-founded, and at all
n order to avoid litigation, which, if protracted, may result in the bankruptcy
mpanies, with loss of all the amounts claimed by the government, some legis-
ems to the committee expedient. Action under such legislation will obviate
ssity for the decision by the courts of many inconvenient and doubtful ques-
ncerning the rights which capture vests in the United States, the obligations
overnment to the owners of property taken and used during the war, the
and force of bonds and agreements executed under alleged military coercion,
r questions of similar character and gravity.

at the elements of equities set up by the roads, avoidance of
on, &c., appear to have entered into the motives for former legis-
Not only so, but legislation would, in the words of the report,
e the necessity for the decision of the courts of many inconvenient
ubtful questions concerning the rights which capture vests in the
States, the obligations of the government to the owners of the prop-
en and used during the war, the validity and force of bonds and
nts executed under alleged military coercion, and other questions of
character and gravity."

points were distinctly brought to the attention of the Senate.
port, it is fair to presume, had weight. At all events the act ap
March 3, 1871, passed as follows:

to provide for the collection of debts due from Southern railroad corporations, and for other purposes.

as certain suits are now pending in the United States courts within the State
ssee, against certain railroad corporations in that State, on account of prop-
to said corporations by the government, which suits are contested by the

defendant corporations; and whereas it is for the interest of the government to speedily adjust and collect the claims of the United States while avoiding litigation and loss by the insolvency of any such railroad: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and is hereby, authorized and required, if he shall deem it advisable, by and with the advice of the counsel of record in such suits for the United States, and Attorney-General of the United States, to compromise, adjust, and settle the same upon such terms as to amount and time of payment as may be just and equitable, and best calculated to protect the interests of the government.

Approved, March 3, 1871.

The preamble to this act recites, among other things, that it is to the interest of the government to avoid "litigation and loss by the insolvency of any such railroad."

Now, as the original footing of all the roads which purchased stock, &c., was exactly the same, their original equities were the same. It is shown that among the motives for the passage of the act of 1871 was avoidance of litigation, &c.

The roads now seeking relief had precisely the same right to litigate as those which did, and their equities were the same. It is fair to presume that they did not sue after the passage of this act on the supposed grounds that as settlements were authorized with some companies to avoid litigation, the same would be done as to all.

The Secretary of War, in his letter relative to certain suits, instituted against certain of those Southern railroad companies which had bought stock as aforesaid, bearing date January 21, 1874, and which is Ex. Doc. No. 70, Forty-third Congress, first session, says:

* * * * * * *

The committee further ask what the basis or reasons of such deduction were; whether or not any allowance was made for damages claimed to have been done these roads during the war; and whether or not the War Department found the government appraisals of the property purchased by said corporations to have been excessive.

To which it is answered—

1st. That no allowance was made for damages of any kind.

2d. That the appraisals of the property sold were regarded as excessive. The companies being unable, at the time of the surrender of their roads, to raise money for their equipment, were compelled by their necessities to purchase the rolling-stock, &c., from the government on almost any terms asked.

4th. The rates for transportation allowed by the Quartermaster-General in the contracts of sale were not deemed remunerative.

There were in some cases controversies as to the amount of property delivered, the amount earned for transportation at Quartermaster-General's rates, and other items.

Other matters having much influence in inducing these compromises related to questions as to the ability of the several companies to pay the amounts claimed by the government, and also as to the effects of prior liens on the roads at the time the debts to the government were contracted.

These, together with the general uncertainties of the results of litigation, were the elements from which the compromises were educed.

These reasons apply with equal force to the companies now seeking relief.

The Committee on the Judiciary of the House, shortly after the above letter of the Secretary of War, through Mr. Frye, presented their report, No. 101, of same session above, dated February 13, 1874, to accompany House bill No. 1938, and specially refer to the above letter in the following significant language:

From considerations set forth in said report of the Judiciary Committee of the Forty-first Congress, from the suggestive information contained in the Secretary's letter, your committee are persuaded that a settlement may be made with these roads speedily which shall be just and equitable, and best calculated to protect the interests of government, and therefore recommend the passage of the accompanying bill, as a substitute for the one referred.

en it is remembered what reasons the Secretary assigns for the nent, the Judiciary Committee of the House well refer to its "sug- e information."

s committee of the House adopts fully the very able report made :. Benjamin F. Butler, on House bill 2178, in respect to indebtedness tain Southern railroads, No. 78, Forty-first Congress, second ses- reported June 9, 1870, and incorporated it in full as part of their :. From the report of Mr. Butler, fully adopted by Mr. Frye, the ittee makes several extracts, as follows:

company also claim that the bond given to the United States is not binding in on the corporation, among other things, because the president of the board had 'er, without a vote of the stockholders, to execute a contract of such magnitude deeply affecting the rights of the corporation. The road also avers that the ras executed under coercion and duress by military power, in accordance with tructions of a military officer that the bond must be executed at once, with the that if not immediately executed military possession of the road, which had reviously surrendered, would be resumed by Major-General Thomas, the com- r of that military department.

company further claim that the bond being void, the government can recover r the true value of the property which actually belonged to the government eived by the road; and that the property was largely overvalued by the board raisers, in the appointment of which the company had no selection or voice, and s compelled to take the property at the appraisal so made; and further, that e at all for the value of such property when justly ascertained, yet their lia- annot be determined in a suit in equity.

* * * * * * *

committee insert here some testimony bearing on this point.

act from the testimony before the committee:

By the CHAIRMAN:

estion. Do you know whether, as a matter of fact, the capacity of the roads for ss has been increased since they have been restored to them?

swer. I could not swear that it is so; but I suppose that it is so. When they application to us for extension they are apt to say they have been obliged to go ense to put their roads in repair. When this order went into operation I hoped ates would be soon restored to their original condition in the Union, and I thought y that if they made application to Congress they would be treated liberally, and even be eventually released from their bonds. I did not expect we would get money from them, as I supposed that Congress, in its discretion, in order to aid stablishing trade and prosperity, might think fit to relieve them from these

By Mr. MERCUR:

Was any intimation given to these companies that such would be the case? ight have expressed the opinion, in discussing the case with them, that Con- could possibly or probably do so, but the executive branch of the government not. That was my impression at the time, and I always talked frankly with I wished to know their sentiments, and had no desire to conceal my own or opinions.

Do you mean to say that you used that as an inducement for them to enter into rangement?—A. No. They represented a very strong interest. Some of the men of the South were connected with it, representative men of great personal as political influence, and I could see good policy in treating them liberally. ardon prominent rebels, and release their estates from confiscation, I cannot v we can justly deal severely with the railroads.

Do you know whether there is a vast amount of northern capital invested in oads, in the shape of bonds and stock?—A. I don't know.

"M. C. MEIGS,
"*Quartermaster-General and Brevet Major-General U. S. Army.*"

* * * * * * *

"NASHVILLE, *November* 21, 1868.

. COLE, esq., president of the Nashville and Chattanooga railroad:

ras a director and a member of the executive committee of the Nashville and nooga Railroad Company from 15th September, 1865, to the 14th August, 1868; on after the road *was turned over* to the stockholders in the autumn of 1865,

the important question arose as to whether the company should or not purchase a large amount of rolling-stock, stores, buildings, &c., belonging to the United States government, and formerly used on the road and stored in and around the depot buildings.

"The executive committee in 1865 consisted of three directors, composed of M. Burns, president of the company, N. E. Alloway, and myself. Mr. Burns was in favor of executing a certain bond for the payment of a large amount of stock, stores, and material, amounting to more than a million and a half of dollars, while Mr. Alloway was opposed to the purchase. Each one tried to convince me of the correctness of his position. I told them I desired to have an interview with Major-General Thomas on the subject before deciding how to vote.

"They agreed to go and see General Thomas and let me make up my mind. We did so, and in answer to questions, after explaining the object of our visit, General Thomas stated that the bond proposed had been modified for Tennessee railroads, and if the bond was not given he must take immediate possession of the road in accordance with orders from the War Department.

"We stated that the government was in debt to the Nashville and Chattanooga Railroad Company for transportation of troops and stores during the war to a very considerable extent, and inquired if an offset could not be made. General Thomas said no, that could not be done, for our claim was in one department of the government, while the debt due by us, if we made the purchase, was in another department, or language to that effect.

"He stated further that the government would treat us kindly, and he said there was no reason for us to expect any particular trouble on the subject, though he could give us no advice as commander of the department, and only gave us his individual opinion.

"Upon leaving his room I lingered behind and thanked General Thomas for the interview and the information obtained, and repeated the fact that it was a very important matter to the stockholders, and as the committee then stood my vote was to decide the matter. He said: "Mr. Nelson, were I the whole company, I think I would have no hesitancy in giving the bond." The interview decided my course, and the board repaired to the director's room, at the depot, and Mr. Burns and myself voted for executing the bond, which was subsequently ratified by the entire board of directors except Mr. Alloway, who was against the measure from the beginning. The directors all thought that the government would pay the company for the use of the road during the war.

"My vote in the negative would have defeated the giving of the bond, and I voted in the affirmative, under the belief and firm conviction that the government would allow the company compensation for the use of the road during the war as a matter of justice to the stockholders. Otherwise I never should have voted for the purchase or executing the bond.

"ANSON NELSON.

"Sworn and subscribed to before me this 23d of November, 1868.

"P. W. BRIEN,
"*Notary Public.*

"STATE OF TENNESSEE, *Davidson County:*

"Personally appeared before me Anson Nelson, with whom I am acquainted, and acknowledged that he signed and executed the within instrument for the purpose therein expressed. In testimony whereof, I have hereunto set my hand and affixed my seal of office, at Nashville, Tennessee, on the 23d day of November, 1868.

"P. W. BRIEN.
"*Notary Public.*"

If, under these circumstances, the full extent of the bonds is to be exacted of the roads, your committee deem it but just and equitable that all the facts attending the giving of the bonds, and any equities that may cluster around those facts or spring from them, shall be fully considered.

* * * * * * *

Your committee have not intended to express any opinion as to the merits of this litigation, but they are impressed with the consideration that there may be doubts about the validity of the bonds accepted by the roads in the manner that was done, and under the apparent form of compulsion used; and they cannot fail to believe that there may be equities in favor of the roads, or of stockholders therein, which are entitled to be considered. They are supported in this by the testimony of Major-General Meigs upon this subject, as reported in House Report 34, Thirty-ninth Congress second session, page 266, in which he gives his explanations as an officer of the government in relation to these bonds at the time they were acquired from the road. If an officer of the government, at the time he was executing the bonds, made the explanations and held the views which seem to have possessed General Meigs: and as

e says he did not refrain from frankly expressing such views, talking with the offi-
ers of the road, it may well be imagined that the company might have taken property,
olling and other stock, at a valuation much enhanced from the actual price, and
hat the appraisers might have been quite careless in the valuation affixed to property,
hey being officers of the government, when their chief believed that the property
ever was to be paid for, and the president of the road, in signing the bonds, believed
hey never would be exacted.

The testimony referred to of General Meigs, House of Representatives
Report 34, Thirty-ninth Congress, second session, page 266, appears in
former part of this report. Subsequent to the report of Mr. Frye, of
February 13, 1874, which embodies the full text of the report of Mr.
Butler, came the act of February 23, 1875, as follows:

AN ACT to provide for settlements with certain railway companies.

Be it enacted by the Senate and House of Representatives of the United States of America
Congress assembled, That the Secretary of War and Attorney-General are hereby
uthorized and empowered jointly to adjust and settle the claims of the United States
gainst
The Alexandria, London and Hampshire,
The Edgefield and Kentucky,
The Knoxville and Kentucky,
The McMinnville and Manchester,
The Mobile and Ohio,
The Memphis, Clarksville and Louisville,
The Memphis and Little Rock,
The Nashville and Northwestern,
The Southwestern Branch Pacific Railroad of Missouri, and
The Selma, Rome and Dalton Railroad Companies, and all persons and corporations
aving any interest in the subject growing out of the sale and transfer by the United
tates of any rights or property to said railway companies above named, respectively,
n the years eighteen hundred and sixty-five and eighteen hundred and sixty-six, or
oth, by making such abatement in the amount of such claims, respectively, as shall
e deemed just, in respect of an overvaluation, if any, of the property sold, not ex-
eeding twenty-five per centum of the valuation of the property in each case, as made
nder the authority of the War Department on the occasion of such sales: *Provided,*
That such settlements shall be made within one year next after the passage of this
ct; and that good and sufficient security be given to the United States by or on be-
half of the parties in interest, respectively, who do not pay in cash at the time of set-
tlement, for the payment, with interest, of such sums as shall, on such settlements,
be so found due, at such times within ten years as may be agreed upon.

SEC. 2. That this act shall not be construed so as to produce or authorize any delay
in the prosecution of said claims respectively other than as aforesaid; and each of
said claims not so settled and disposed of as aforesaid shall be prosecuted and enforced
according to existing obligations. In such settlements no allowance shall be made in
respect of any matter occurring prior to such sales and transfers, nor otherwise, except
such payments as may have been made in cash, and such credits for transportation as
the general course of the business regulations of the departments authorizes. And in
any such settlements, the said Secretary and Attorney-General shall, as a condition
thereof, take a full release from the other parties, respectively, of all claims and de-
mands of every name and nature theretofore existing, if any such there be, against the
United States.

Approved, February 27, 1875.

It may be said that the acts of March 3, 1871, and February 27, 1875,
rew out of the fear of insolvency of the companies relieved. It is dif-
ficult to believe that such precedents would have been made for such
easons, the more especially as the reports quoted, the letter of the Sec-
etary of War, the testimony of Mr. Nelson, and the testimony of Gen-
al Meigs show that the legislation can be fairly maintained on much
ronger and more equitable grounds.

And the subsequent legislation shows that Congress was controlled
y equity, and not by a spirit of bargaining with doubtful debtors.

Senate bill 177, Forty-fourth Congress, first session, was referred to the Committee on Military Affairs, and on the 3d of April, 1876, Mr. Gordon, from that committee, submitted report No. 225, on that bill, which was to authorize the Secretary of War to open the settlement made by the United States Government with the Western and Atlantic Railroad of Georgia. It was not claimed that that road was insolvent, bankrupt, or in danger of insolvency or bankruptcy. On the contrary, it is shown that the company have paid, prior to the legislation sought, every dollar according to contract. These points were distinctly made, and it was distinctly relied on, that the same reduction from the contract should be made for that company as had been made by virtue of the legislation as to the other roads.

Mr. Gordon's report shows distinctly these grounds, and is as follows:

[Report to accompany bill S. 177.]

The Committee on Military Affairs, to whom was referred Senate bill 177, report the substitute which accompanies this report, and recommend that the substitute pass.

It is a bill to authorize the Secretary of War to open the settlement made by the United States Government with the Western and Atlantic Railroad, of Georgia, and to make a settlement on the same basis which was adopted by the government in its settlement with the railroads of Tennessee.

The committee make this recommendation for the following reasons:

1st. The Western and Atlantic Railroad, of Georgia, was turned over to the owners about the same time, to wit, on the 21st day of August, 1865; that the said railroads of Tennessee, the Nashville and Chattanooga Railroad, the East Tennessee, Virginia and Georgia Railroad, and the Nashville and Decatur Railroad, were turned over to their owners, and under the same orders from the War Department and by the order and under the direction of Major-General Thomas; that the United States Government turned over these roads to their owners, and sold to each of them the engines, rolling-stock, &c., owned by the government and used upon these roads respectively; that the sale was made to each of these railroads of the said government property upon an appraisement made at the time and at the same or like prices to each and to all.

2d. Because afterward, to wit, in the year 1871, the United States Government, through the Secretary of War, acting under act of Congress of March 3, 1871, proceeded to revise the prices and readjust the settlements formerly made with the said Tennessee railroads, and reduced the amounts due from those roads to the government, for the reasons assigned by the Secretary of War in his letter to the Judiciary Committee of the House of Representatives, dated January 21, 1874, in which the Secretary says:

The committee further ask what the basis or reasons of such deductions were; whether or not any allowance was made for damages claimed to have been done these roads during the war, and whether or not the War Department found the government appraisals of the property purchased by said corporations to have been excessive.

To which it is answered—

1st. That no allowance was made for damages of any kind.

2d. That the appraisal of the property sold was regarded as excessive, &c.

And because, although the excessive prices were paid by the Western and Atlantic Railroad, of Georgia, no deductions were or ever have been in behalf of this last-mentioned road.

3d. Because the committee believe that, if the prices paid for the government property were excessive in the case of the Tennessee railroads, the same prices were also excessive in the case of the Western and Atlantic Railroad, of Georgia, and that it is just and equitable that like deductions should be made to this road, and that the government deal with all these creditors alike.

The committee, therefore, recommend that this substitute for the original bill pass, authorizing the Secretary of War to settle with the Western and Atlantic Railroad, of Georgia, upon the same basis which was adopted by the government in the settlement with the Tennessee railroads.

No reasons are given save those above. That is the whole report Whatever other reasons may have influenced the committee they assigned none, save that the Western and Atlantic Company was upon the same equitable plane, and entitled to the same legislative relief as had

been granted to the other companies, and this appeared conclusive, for the act approved March 3, 1877, followed, which is here inserted:

AN ACT to authorize the Secretary of War to open and readjust the settlement made by the United States Government with the Western and Atlantic Railroad of Georgia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War is hereby authorized to reopen the settlement made by the United States Government with the Western and Atlantic Railroad of the State of Georgia, and to adjust the same upon the basis and the plan of settlement which was adopted in the settlement made by the Secretary of War with the Nashville and Chattanooga Railroad Company, the East Tennessee and Georgia Railroad Company, and the Nashville and Decatur Railroad Company, under the authority of the act of Congress approved March third, eighteen hundred and seventy-one.

SEC. 2. That when said claims have been adjusted in pursuance of the provisions of this act, the Secretary of War be, and he is hereby, authorized to issue his warrant on the Treasury of the United States to the governor of Georgia or his order for the amount of money it is found ought to be refunded to said railroad on account of said settlement.

Approved March 3, 1877.

The House Committee on Military Affairs, through Mr. Cook, Forty-fourth Congress, first session, August 12, 1876, also made favorable report of House bill 4092 for the relief of certain of these companies. The Senate Committee on Military Affairs, through Mr. Spencer, reported favorably Senate bill 457 for the relief of the companies now asking it.

In view of the strong array of facts as to the original equities; in view of the judgment of every committee which has examined into the subject; in view of the action of Congress in like cases, the committee report back Senate bill 98 with amendment shown by the bill, and as amended recommend that it do pass.

C

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 240.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1880.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 474.]

The Committee on Military Affairs, to whom was referred the bill (S. 474) for the relief of William McGovern, have carefully considered the same and submit the following report:

This bill directs the Secretary of War to cause William McGovern, of Company C of the First Regiment New York Volunteers, to be mustered out and honorably discharged from the service, to date from September 9, 1861. In the Forty-fifth Congress a similar bill, dating, however, the discharge from April 1, 1864, was passed by the House of Representatives, and was referred to the Committee on Military Affairs in the Senate, where no further action was taken. The Committee on Military Affairs in the Senate in the Forty-fifth Congress applied to the Secretary of War for information, and received from him the military record of said McGovern, taken from the records in his office. From the records in the War Department it appears "that William McGovern was enrolled and mustered into service as a sergeant on the 3d day of May, 1861, at New York, in Company G, First Regiment of New York Volunteers, for two years. On muster-roll of Company C of that regiment, to which transferred, months of —— to June 30, 1861, he is reported present; July and August, 1861, absent, sick in New York; September and October, 1861, absent, sick in New York; wounded at Big Bethel June 10, 1861. He was admitted to New York hospital, New York City, August 28, 1861, with lumbago, and discharged from treatment September 9, 1861. He having failed to return to the service is considered a deserter from that date. Dishonorably discharged to date September 9, 1861, by reason of desertion."

This dishonorable discharge was furnished in 1876.

The Adjutant-General, under date of February 11, 1879, in answer to an inquiry for the rules and regulations existing at that time, touching his duties about reporting, &c., when in hospital and leaving it, says:

I beg leave to remark that no special rules or regulations exist as to the duties of a soldier while in hospital, inasmuch as his status at such time has no variance from that of a soldier serving with his command in the field. His duties in either case are prescribed by the rules and regulations of war, which forbid him to leave his command without proper authority, upon the penalty of being considered a deserter and treated accordingly. This man was discharged from the hospital at New York City on the 9th of September, 1861, his duty being to rejoin his command without delay, applying to the military authorities for transportation in the event of being unable to travel at his own expense, or if his illness still continued, to have entered some United States

[illegible] New York [illegible] to have reported [illegible] alternative [illegible]

The foregoing shows the actual record in the War Department and the rules and regulations governing in such cases. Do these record show all the facts touching the actual condition and actions of William McGovern from September 9, 1861, when removed from hospital, to the expiration of his term? William McGovern under oath states that he "received a wound in his left side near the spine from a fragment of shell at the battle of Big Bethel, in Virginia, June 10, 1861, and was treated in the field hospital in the Sinclair House, near Fortress Monroe, till July 3, 1861, when he was sent to Newport News, and thence to New York, July 12, 1861, by proper military authority, and that he was under treatment in the New York City hospital for some time when he was removed to his own home in said city of New York, under proper military authority, and that as soon as he was able to move about he went to the headquarters of Surgeon Alexander B. Mott, in said city and reported and was examined, and said surgeon made out a certificate in his presence, and assured him that he would forward the same to the proper parties, and that he did all he could to conform to the regulations, and that he has remained disabled ever since the receipt of said wounds and was wholly unable to perform any military duty during the entire term of his enlistment.

Joseph Burke and Bernard McDonald, in 1876, state under oath that for fifteen years then past they had been intimately acquainted with William McGovern, and that his reputation for truth and veracity is good. Dr. Franklin Smith, a regular physician in good standing, testifies under date September 30, 1876, that he was well acquainted with William McGovern, and had been for upwards of twenty years past, and "that said William McGovern came home on furlough on or about July 16, 1861, and was suffering from a severe contusion of his spine just at the small of his back, and also from severe internal injuries caused, as deponent was informed, by a wound from a fragment of shell; that deponent treated said McGovern professionally for said injuries as soon as he so arrived home, and for several years afterwards, and knows personally that said McGovern was so disabled through the effects of such injuries during the entire month of August, 1861, and for a long time afterwards, *as to render it impossible for him to proceed to his regiment, or to the hospital from which he had received his furlough*, and said McGovern still remains very seriously affected from said injuries."

Dr. John J. Connell, late assistant surgeon Third United States Colored Heavy Artillery, under date March 27, 1879, testifies that "during the latter part of the year 1861, and at intervals during the year 1862, up to the month of May, 1863, he several times examined Sergt. William McGovern, late of Company C, First New York Volunteers, and found him suffering from gunshot wounds, one in left thigh and two in right leg, one above the knee and one below; also, a severe contusion in right lumbar region caused by a fragment of shell; said wounds having been received at the battle of Big Bethel, Va., June 10, 1861, and that in his opinion, Sergeant McGovern was *utterly unable to do military duty or to report in person to his regiment*, and that Sergeant McGovern is permanently disabled by reason of said wounds."

Farrell McGovern, a resident of New York, under date of March 9, 1878, testifies that he was in the same regiment with said William; saw him wounded at Big Bethel; was discharged by reason of natural

ability, and went home with the said William McGovern on the amer Stars and Stripes; saw him in the field hospital, and subsequently in the New York hospital, and also at his own residence in said y; and that the said William went from the hospital to his own me by permission of his military superiors, and that said William has er since remained unable to travel by reason of said wounds.

Martin Riley, a resident of New York, under date of May 4, 1878, testies that he was in the same company of said regiment (Company C) th William McGovern; saw him wounded at Big Bethel; saw him in e field hospital at Fortress Monroe, and subsequently in a New York spital, in a disabled condition, the effects of said wounds; and that erwards, in company with Col. Garrett Dyckman, of the same regient, saw said McGovern lying sick at his own residence in New York, ll suffering from the effects of said wound, about October 20, 1861, d heard Colonel Dyckman tell said McGovern he was totally unfit for rther service, and was entitled to his discharge and pension certificate, d that he would send them to him; and that he again saw said McovernWhen the First Regiment was mustered out of the service, and was then suffering from the effects of said wound, and unable to walk ithout aid of a crutch.

James Sheehan and Thomas McCauley, of New York, under date pril 24, 1878, testify that to their personal knowledge William Mcovern was so badly wounded and disabled when he came home, in uly, 1861, that he was totally disabled and got permission to leave the ospital, and was attended at his home for several years thereafter; and at from September, 1861, to the date of the discharge of his regiment, May, 1863, he was never able to go out of the house without assistnce, and only then with a cane and crutch, and having the help of nother party, and that they frequently called upon him during the ars 1861, 1862, and 1863.

The Adjutant-General U. S. A., under date of January 6, 1880, in anwer to a letter from Mr. Cockrell to him, in relation to the removal of e charge of desertion, says:

The War Department has ample power now "to do equal and exact justice to every plicant for such relief." There are a few cases of one class in which the action of ngress would be beneficent and not injurious to military discipline as an example or ecedent. When a soldier, having become disabled by wounds from any future serce, leaves a hospital without permission, and is reported a deserter, the charge is chnically true; but the rule which would oblige the man to stay in hospital until ed by regular discharge is made in the interest of humanity and to enable the govment to fulfill its contract to nurse and heal its sick and wounded. That the man s become weary of restraint and longs for his home is no great offense under such cumstances. It is thought, however, that such rare instances would be better met special acts for the benefit of individuals, since a general law could not be framed at would discriminate between cases of actual merit and of malingering. It would difficult to frame a law that would not place many men actually at fault upon the same ting with those whose *unblemished* service it was intended to reward by bounties pensions.

The evidence in this case does not contradict the record, but explains e same and accounts for the absence of McGovern, and shows the cause ereof, which the record does not. Is McGovern guilty of desertion cording to his record and the evidence? Did he leave his command the hospital *with the intent—the animus*—not to return? The evince clearly shows that he left his command by reason of severe wounds d with leave and went to the New York hospital. His muster rolls, record up to and including the month of October, 1861, show the ne facts. The evidence further shows that being wholly unfit for duty reason of his injuries he left the hospital with permission and went

to his own home in the same city, and there remained, wholly unfit for duty, until his regiment was discharged.

Your committee find that this case is an exceptional one, and comes clearly within the class of cases referred to in the foregoing quotation from the letter of the Adjutant-General, and should be met by special legislation.

Your committee, therefore, recommend the insertion of the words "to be issued to" just before "William McGovern," and the word "late" just after, in line 4, and the striking out of the words "to be mustered out" and the letter "d" in line 5, and the letters "y" and "d" in line 6, and the substitution of the letter "e" for said "y," and, as thus amended, recommend the passage of the bill.

6TH CONGRESS, 2d Session. } SENATE. { REPORT No. 241.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1880.—Ordered to be printed.

Mr. BOOTH, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany bill S. 316.]

The Committee on Public Lands, to whom was referred the bill (S. 316) for the relief of homestead settlers on the public lands, have had the same under consideration, and submit the following report:

The bill is designed to afford to settlers on the public lands great relief from hardships which have grown up by construction of the present laws in the executive department.

Under the present law the right of a pre-emptor on the public land attaches from the date of settlement, but the right of a settler under the homestead law only from the date of entry. The entry under the pre-emption laws is the final proceeding, while the entry under the homestead laws is the preliminary proceeding, which being followed by five years' residence and improvement, and final proof of same, then the right to a patent vests.

An entry under homestead laws cannot be made until after survey, because before survey no certain description of the land can be given, but the pre-emptor who settles before survey is allowed three months after survey to file his declaratory statement (which is put on record) that he intends to enter the tract described under the pre-emption laws, having settled on the same at a given date, and his right relates back to that date to the exclusion of any other settlers or railroad or any other grants.

There is no reason why the right of the homestead settler should not relate back by his alleging the date of his settlement in his homestead affidavit; and the fact that a settler now before survey has no option, but must claim under the pre-emption law in order to cut off intervening settlers or grants, is sufficient reason why it should relate back, for many settlers have already used their pre-emption right, and are now, though in possession of valuable improvements, entirely at the mercy of intervening pre-emptors or railroad grants.

There can be no doubt that the first *settler*, whether he claims as a pre-emptor or as a homesteader, should have the land, but the present law does not give it to him.

SECTION TWO.

It is now held by the Secretary of the Interior that no rights can attach under any law of the public-land system to lands which have been

entered under the homestead law, as long as the entry exists, and although a person may find a tract of land which has been abandoned by the person who homesteaded it, and may institute a contest at great expense to himself, as he has to pay the expenses of a hearing, and prove the fact of the abandonment, or although he may procure the relinquishment of the homesteader, yet it gives him no preference right of entry when the existing entry is canceled, and if he has settled upon the land it is called by the Secretary the settlement of a trespasser, and can give him no rights. The land is given to the first settler under the pre-emption law, or to the first applicant under the homestead or timber-culture laws *after* the cancellation is noted on the records of the local office.

SECTION THREE.

The present practice of the Department of the Interior as to cancellation of homestead or timber-culture entries in case of relinquishment by the party who entered, is first by filing the relinquishment, indorsed on the back of the receipt given him at the time of the entry in the local land-office, and it is forwarded by that office to the General Land Office, where, after it is reached "in the regular order of business" which may be after the lapse of a year, a letter is written to the local officers canceling the entry, and when this letter reaches the local office, and is noted on the records there, the entry is canceled, and on the instant of that notation the tract is again open to entry or pre-emption claim. The cancellation on these relinquishments is always made as a matter of course, and it is a roundabout method of doing a thing which may be as well done at once by the local officers, and the fact of the cancellation reported to the General Land Office in the same way that the original entry was reported.

These relinquishments are nearly always made as the result of the purchase of the improvements by some person who is looking for a homestead, and if the cancellation were immediately noted, he, by reason of his being a party in the matter, would be able to enter before any one else; but as long as cancellations in such cases are made as above, he has no advantage by reason of such purchase, for in the interval it becomes widely known in the neighborhood and at the land-office that the claim to that tract has been relinquished, and all the "jumpers" and speculators of both localities are immediately on the alert to ascertain in advance of every one else the moment of the cancellation. This desire is no small source of corruption in the local land-offices, and reporting cancellations by telegraph, in advance of notice to local land-offices, which goes by mail, forms a considerable part of the business of some land attorneys in this city.

The committee recommend the passage of the bill with a verbal amendment.

O

6TH CONGRESS, 2d Session. } SENATE. { REPORT No. 242.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1880.—Ordered to be printed.

Mr. GROOME, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 957.]

The Committee on Pensions, to whom was referred the bill (S. 957) granting a pension to Charles Reed, of Muscatine, Iowa, having carefully examined the same, report:

That the said Charles Reed applied to the Pension Bureau on August 0, 1877, for a pension, because of disability alleged to result from two unstrokes, one received one July 4, and the other on July 21, 1864, hile in the service in the line of duty. The application was refused ecause "there was no record evidence of alleged disability, and beause of claimant's inability to furnish the necessary testimony to conect it with his military service."

The claimant, to establish his right to a pension, filed with the Comissioner his own affidavit and that of the captain of the company, hat he was prostrated by sunstroke on the two days already designated, hile in the service and the line of duty, and as to his broken health ince his discharge; and also filed the affidavits of his wife and two ther persons, stating in general terms that his health is greatly impaired. and that he cannot perform any severe labor for any length of time without producing entire nervous prostration.

Neither the hospital records, nor the regimental books, nor the company's rolls and returns, furnish any evidence of the alleged sunstrokes; nor is there any medical testimony whatever to the fact that the claimant is suffering from the effects of sunstroke, except that of the medical xaminer, who did not examine him until November 7, 1877. The laimant states in his affidavit that he was treated for sunstroke while 1 the service, by the assistant surgeon of his regiment, but that after areful inquiry he has failed to find him and procure his affidavit; and at after his discharge he was treated for his nervousness by another hysician, who died in March, 1869.

Your committee are of opinion that the claimant has not established s right to a pension, and therefore recommend that the bill be indefitely postponed.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 243.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1880.—Ordered to be printed.

Mr. GROOME, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 181.]

The Committee on Pensions, to whom was referred the bill (S. 181) restoring to the pension-rolls the name of Mary Burr, have carefully considered the same, and report:

That Mary Burr is the widowed mother of Benjamin A. Burr, late sergeant of Company C, Third New Jersey Volunteers, who was killed in battle at Manassas on August 27, 1862. That under the provisions of the act of July 14, 1862, she was allowed a pension at the rate of $8 a month, to commence on March 14, 1870, and continue during life, unless she should again marry.

About the beginning of the year 1876 her pension was suspended, because of the attorneys who had aided her in procuring the same being detected in improper practices; and on January 3, 1877, she was stricken from the pension-rolls upon the ground that she was not dependent upon her son for support at the time of his decease. At that time her husband, who was a shoemaker by trade, and who owned no property, was living. He had been injured in 1859 by falling into a cellar, and there is some conflict of testimony whether or not the injury then sustained continued to disable him so as to prevent him from earning a support for himself and wife in 1862, and whether or not her son contributed to her support prior to his enlistment and while in the Army.

Mrs. Mary Burr is now between 75 and 80 years of age, and in circumstances of extreme destitution. Her situation appeals strongly to the sympathies of the committee, but they do not feel that the evidence that her husband, who was legally bound to support her, was in fact unable to do so in 1862, is sufficiently strong to justify them in reversing the action of the Pension Bureau directing that her name be stricken from the pension-rolls.

They therefore report the bill back with a recommendation that it be indefinitely postponed.

6TH CONGRESS, 2d Session. } SENATE. { REPORT No. 244.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1880.—Ordered to be printed.

r. GROOME, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 363.]

e Committee on Pensions, to whom were referred the bill (S. 363) granting an increase of pension to James C. McCarty, and the accompanying papers, respectfully report:

That the bill proposes to draw an invidious distinction between the id McCarty and other honorably discharged soldiers of the war of 12, by increasing his pension from $8 to $15 per month, while theirs allowed to remain at the monthly rate of $8.

The proposed legislation is asked solely because of the alleged facts at Mr. McCarty is of advanced age, in feeble health, and in indigent rcumstances.

Your committee recommend the indefinite postponement of the bill, d ask to be discharged from the further consideration of the petition citizens of Jackson County, Missouri, praying for the increase of said cCarty's pension.

ONGRESS, } SENATE. { REPORT
ession. } { No. 245.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1880.—Ordered to be printed.

OTH, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany bill S. 490.]

mittee on Public Lands, to whom was referred the bill (S. 490) ition to certain fees allowed registers and receivers, have had the nder consideration, and submit the following report :

ons 2240 and 2241 of the Revised Statutes provide that "the sation of registers and receivers, including salary, fees, and com- s, shall in no case exceed three thousand dollars per year each," t "whenever the amount of compensation received at any land ceeds the maximum allowed by law to any register or receiver, ess shall be paid into the Treasury as other public moneys."

nly provision ever made for clerical services in land offices was of March 21, 1864, paragraph 10, section 2238, of the Revised s—"Registers and receivers are allowed jointly at the rate of ents per hundred words for testimony reduced by them to writing nants in establishing pre-emption and homestead rights."

egulations for giving proper effect to the act of March 21, 1864, ued by the Commissioner on the 18th of April, 1864, and con- ne following:

s another service, however, contemplated in said fourth section, which personal labor and perhaps occasional clerical assistance, *which is not to be for as fees constituting a source of revenue :* and that is, the authority said sec- the register and receiver for receiving "jointly" at the rate of fifteen cents ed words for testimony which may be reduced to writing in establishing on or homestead rights. (2d Lester, p. 254.)

annual report for the fiscal year ending June 30, 1878, he makes owing recommendation (pp. 114, 115):

the last fiscal year the joint fees allowed registers and receivers for reducing to writing in establishing pre-emption, homestead, and mineral rights were ed to be accounted for by the receiver of public moneys. On July 9, 1877, , after careful consideration, decided that, under the law as it now stands, should be accounted for as other fees and commissions. * * * The serv- hich these moneys are received are over and above the ordinary duties of and receivers. The performance thereof involves personal labor, and fre- equires clerical assistance to be employed by the officers for the purpose. l instruction registers and receivers employed the necessary clerical force, herefor out of the fees authorized by said section 4 to be received for reduc- ony to writing.

, 1877, an order was issued by the Commissioner of the General Land Office registers and receivers to report monthly thereafter the amount of fees re- m said service, but no order to pay over the same until February, 1879, when vas issued *requiring the payment* of all fees received for such service subse-

quent to July 1, 1877, in all cases when by including these fees the maximum compensation was exceeded.

The Commissioner of the General Land Office evidently regards the literal interpretation he feels compelled to give the law as a hardship. And the moneys are to be viewed in the nature of expenses incident to the prosecution of the claims, rather than fees. I regard it as a hardship to compel the district officers to charge up the same against their maximum compensation, and recommend legislation to relieve them therefrom.

The object of the present bill is to make the law conform to the construction given to the act of March 21, 1864, from its passage to July 1, 1877. And the committee recommend its passage, with an amendment.

O

CONGRESS, } SENATE. { REPORT
Session. } { No. 246.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 11, 1880.—Ordered to be printed.

OCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 459.]

ommittee on Claims, to whom was referred the bill (S. 459) for the re- of Elizabeth B. Custer, have duly considered the same, and submit the wing report:

bill directs the Secretary of the Treasury to pay to Elizabeth B. r, widow of the late General George A. Custer, three thousand dol- full settlement for all *claim against the United States* for money ut of the estate of her father to the United States for an *alleged* by the government against her father's estate on account of surety- n the bond of one Levi Humphrey, United States marshal of Mich- 1845.

October 22, 1877, in the first session of the Forty-fifth Congress, R. 3120 was introduced and referred to the Committee of Claims, February 8, 1878, was reported to the House favorably by said ttee, and passed the House March 22, 1878, and in the Senate was d to the Committee on Claims, and no further action was had. id bill (H. R. 3120) is precisely the present bill (S. 459). The re- ade in the House in the Forty-fifth Congress is as follows, to wit:

DICKEY, from the Committee of Claims, submitted the following report (to any bill H. R. 3120):

mittee of Claims, to whom was referred the petition of Elizabeth B. Custer, respect- fully report:

beth B. Custer is the widow of the late General George A. Custer, and the only the late David S. Bacon, formerly of Michigan.

nuary, 1845, one Levi S. Humphrey, then of Monroe, Michigan, was duly ap- Unites States marshal for the district of Michigan, and the said David S. with Charles M. Humphrey, Lewis Darrah, J. G. Thursbee, Harry V. Mann, and Studdiford, all of Monroe, Michigan, became sureties on the bond of said Levi phrey as such United States marshal.

e 18th of May, 1866, the said David S. Bacon died, and his estate was in the f settlement according to the laws of the State of Michigan.

ime provided by law for filing claims against the estate expired on the 2d of , 1867, but by an order of the probate court the time was extended six months, the entire time for filing claims one year from the granting of letters.

three months after this time had expired the United States district attorney district made a motion in the probate court for an order to open the said es- allow him to file a claim against said estate for alleged "forfeiture and default" marshal's bond.

motion was denied by the probate court, and on an application for mandamus reme court of Michigan sustained the probate court. (16 Mich. R., p. 204.)

bruary, 1868, proceedings were commenced in the district court at Detroit, by d district attorney, and the executor was enjoined from settling said estate.

Thereupon the said district attorney began a suit at law, claiming that the said Humphrey, United States marshal, had, in October, 1845, "misappropriated funds" to the amount of $3,383.79, and was defaulter to that extent.

The United States district court having ruled that the statute of limitations did not run against the government in such cases, the decease of all the parties interested and the long lapse of time making it difficult or impossible to procure evidence, the executor, by advice of counsel, compromised the case by the payment of $3,000 and costs and fees amounting to $510.34. This was paid in April, 1869.

By an examination into the account of said marshal, at the office of the Comptroller of the Treasury Department, it is found that $2,130.05 of the said claim was a "suspended account," and that the residue, $1,253.74, had from time to time, during the years 1844 and 1845, been disallowed in small items. A large portion of said claim against the said marshal consisted of small items for overcharges, witness fees, expenses in traveling, jury-allowances, &c.

There does not appear at any time to have been any effort to bring the account of said marshal to a settlement, but it remained open and unsettled for a period of 21 to 22 years, when it was raked up by the district attorney, and the estate of Bacon harassed by it until the compromise, as above stated, was effected.

The marshal and cosureties had all in the mean time died and their estates settled or had become insolvent, thus preventing all opportunity for contribution.

The committee are therefore of opinion that, by reason of the extraordinary delay of the government in bringing this account to a settlement, the petitioner ought to be reimbursed by granting the relief prayed for, and accordingly report a bill for that purpose and recommend its passage.

The papers referred to your committee consist of a voluminous petition signed by claimant, and verified by affidavit October 1, 1877, and a copy of the bond of Levi S. Humphrey as marshal, and a certificate from the probate judge of Monroe County, Michigan, in regard to the estate of David S. Bacon, and a certificate of the clerk of the United States district court for the eastern district of Michigan in regard to the institution of proceedings in said court against the estate of said David S. Bacon, and the rendition of a judgment for debt, $3,000, and costs of suit, $13.90, and satisfaction of said judgment by the United States district attorney, and the deposit of said $3,000 by said United States district attorney, Alfred Russell, in the Second National Bank of Detroit, Mich., a designated depository of public moneys, to the credit of the Treasurer of the United States, April 14, 1869, and a certified copy, by the First Comptroller of the Treasury, under date of January 21, 1878, of the statement of the account of the said Levi S. Humphrey, on file in his department, and a statement of facts contained in the petition of Mrs. Custer for relief, and not signed by any one. These were the only papers presented to your committee. Your committee have carefully examined all these papers, and find that the H. R. report hereinbefore quoted closely follows the said "statement of facts," as far as it goes. Your committee find that in addition to the facts stated in said report, it is stated in the said petition and statement of facts that said Levi S. Humphrey, the principal in said bond, "resided in the United States and within the jurisdiction of the courts most of the time from the date of said bond till the date of his death, which occurred in Wayne County, Michigan, 23d day of August, 1868, and that during a part of such time, as this petitioner is informed and believes, he, the said Humphrey, was solvent, and the amount of said claim could have been realized from him, and that by reason of the unexplained laches on the part of the government to assert and prosecute said claim for 22 years and more, the cosecurities of said Bacon became insolvent, and no contribution could be had from them or any of them, and all the witnesses on the part of the defense are dead, "and all evidence thereby cut off and means defeated for making a full defense upon the merits," and the estate of the father of the petitioner forced to pay nearly the whole amount, and that the government failed to make demand or prosecute said claim for more than twenty years, and not until all the proof on the part of the defense was

gone, and that the said Humphrey was not in fact a defaulter and had not misappropriated funds, but had presented vouchers and receipts, informal and not satisfactorily verified, and the claim of the government had no foundation in fact.

Your committee, after having carefully examined all the facts in the case as presented by the papers, referred the bill to the Secretary of the Treasury for information and for all the facts shown by the records of the government touching this whole transaction, and received from him the following letter, and accompanying report from the First Comptroller, to wit:

TREASURY DEPARTMENT, *January* 24, 1880.

Hon. F. M. COCKRELL,
United States Senate:

SIR: In reply to the inquiries in your letter of the 27th ultimo, relative to Senate bill 459, for the relief of Elizabeth B. Custer, I have the honor to inclose herewith copy of a communication addressed to this office by the First Comptroller under date of the 15th instant, together with the inclosures of his letter.

With reference to your request for the views of this department upon the propriety of the enactment of the bill and its effect as a precedent, I would say that, if the money was legally and properly due to the United States from the estate of David S. Bacon, as the statement of the Comptroller seems to show, it ought not to be returned on the ground that it was collected more than six years, or any specified time, after the obligation became due, and that the passage of such a bill, if regarded as a precedent, would be to call upon the United States for the return of large sums of money. If the sum named in the bill is given as a gratuity, it would seem better that it should not appear to be a return of money improperly collected.

Respectfully,

JOHN SHERMAN, *Secretary.*

TREASURY DEPARTMENT,
FIRST COMPTROLLER'S OFFICE,
Washington, D. C., January 15, 1880.

Hon. JOHN SHERMAN,
Secretary of the Treasury:

SIR: In reply to the letter of Hon. F. M. Cockrell, chairman of the Senate Committee on Claims, dated the 27th ultimo, and referred by you to this office on the 5th instant, I have to state that Levi S. Humphrey was appointed and commissioned United States marshal for the District of Michigan July 22, 1844, to serve as such until the end of the next session of the Senate, and he executed an official bond September 4, 1844.

He was again appointed and commissioned January 5, 1845, to serve for four years, and executed an official bond February 1, 1845.

The names of the sureties on each bond are the same except that the name of Jefferson G. Thurber is on the second bond in place of Miner Downing, whose name is on the first. I transmit herewith a copy of the second bond bearing date February 1, 1845.

Mr. Humphrey was succeeded in office by Austin E. Wing, who was appointed February 24, 1846; gave bond March 7, 1846, and entered upon his duties March 10, 1846.

Upon the final adjustment of the accounts of Mr. Humphrey, December 6, 1855, a balance $3,383.79 was found due from him to the United States. A copy of this adjustment is inclosed.

On the 3d of January, 1856, certified transcripts of the First Auditor's statements of and reports upon the accounts of Mr. Humphrey, accompanied by transcripts of his accounts current, and of the Treasury warrants drawn and drafts issued thereon, were transmitted to the Solicitor of the Treasury for the purpose of having suit instituted against him and his sureties to recover the balance due the United States.

Suit was begun May 2, 1856, in the United States circuit court for the district of Vermont against Mr. Humphrey alone, who had removed to that district; and on the 5th of October, 1860, a judgment was rendered him for $3,383.79 debt, $3,038.65 interest, and $31.56 costs, making a total of $6,454.

An execution was issued November 9, 1860, but there was a return of no property, the defendant having proved to be insolvent.

On the 18th of September, 1867, the Solicitor of the Treasury transmitted to Alfred Russell, esq., United States attorney for the eastern district of Michigan, certified transcripts of the accounts of Mr. Humphrey, furnished by the First Comptroller, and directed suit to be instituted against his sureties. On the 27th of September, 1867, the district attorney replied to the Solicitor that the sureties were all insolvent, or of doubtful solvency, except *Daniel S. Bacon*, whose estate was not yet finally settled, and that *he would take steps to make the debt out of his estate.*

The district attorney, on the 1st of November, 1867, further reported that the probate judge refused to receive the account of the United States, the time limited by law for filing claims having expired. The matter was presented to the supreme court of the State of Michigan, which held that the discretion to receive or reject the account was vested wholly in the probate judge.

This decision, the district attorney stated, would preclude the United States from recovering anything in Michigan, unless a *mandamus* could be obtained from the proper United States circuit court to compel the probate judge to entertain the claim.

On the 22d of February, 1868, proceedings were commenced in the United States circuit court against Walter C. Bacon, executor and trustee, *et al.*, and notice of institution of suits, both in law and in chancery, were received by the Solicitor of the Treasury.

On the 10th of December, 1868, the district attorney reported that a plea of the statute of limitations had been overruled, and he inclosed to the Solicitor of the Treasury a proposal of Walter C. Bacon, executor, &c., to compromise the suit by paying $3,000 in satisfaction of the claim, and recommended the acceptance thereof.

On the 15th of December, 1868, William P. Mellen, esq., special attorney, &c., submitted a report made by him in the case, and concurred with the district attorney in regard to an acceptance of the offer to compromise.

On the 16th of December, 1868, the Solicitor of the Treasury submitted the offer of Mr. Bacon to compromise, together with the recommendation of Mr. Russell and Mr. Mellen, to the Secretary of the Treasury, who, on the 28th of December following, authorized an acceptance of the offer.

On the 17th of April, 1869, District Attorney Russell transmitted to the Solicitor of the Treasury a certificate of deposit of $3,000 on the Second National Bank of Detroit, the said deposit having been made by Mr. Bacon, the executor, in accordance with the terms of the compromise thus made.

The amount of the certificate was afterwards covered into the Treasury by direction of the First Comptroller.

The adjustment made pursuant to the compromise was certified by the First Comptroller on the 16th of June, 1869, and the account closed on the books of the Treasury.

In reply to the inqury of Mr. Cockrell whether, if the bill mentioned in his letter should become a law, and be acted upon and considered a precedent, there would probably be any considerable number of similar claims for refunding to sureties on official bonds moneys paid by them "after the lapse, say, of six years after the principal ceased to be an officer of the United States," it may be said that there probably would; but in relation to the propriety of passing said bill, no opinion is intended to be expressed.

The letter of Mr. Cockrell is herewith returned.

Very respectfully,

A. G. PORTER,
Comptroller.

No. 3803.

TREASURY DEPARTMENT,
FIRST AUDITOR'S OFFICE,
December 21, 1855.

I hereby certify that I have examined and adjusted an account between the United States and Levi S. Humphrey, late marshal for the district of Michigan, and find him chargeable—

To balance due from him per report No. 3718		$3,996 86
I also find him entitled to credit—		
By amount suspended per report No. 93881, but now allowed by direction of the Comptroller, per his letter filed herewith, dated December 14, 1855, viz, amount, clerk's costs	$374 58	
Amount, clerk's costs	98 49	
	140 00	
		613 07
Amount balance due United States		3,383 79
Dollars		3,996 86

as appears from the statement and vouchers herewith transmitted for the decision of the Comptroller of the Treasury thereon.

$3,383.79. T. L. SMITH, *First Auditor.*

To the FIRST COMPTROLLER OF THE TREASURY.

COMPTROLLER'S OFFICE.

I admit and certify the above balance this 24th day of December, A. D. 1855.

E. WHITTLESEY, *Comptroller.*

To the REGISTER OF THE TREASURY.

evi S. Humphrey, late marshal for the district of Michigan, in account with the United States.

Dr.			Cr.
To balance due from him per report No. 3718	$3,996 86	By amount suspended per report No. 93881, but now allowed by direction of the Comptroller, per his letter, filed herewith, dated 14th December, 1855, viz:	
		Clerk's costs $374 58	
		Do 98 49	
		Do 140 00	
			$613 07
		Amount balance due to United States	3,383 79
Dollars	3,996 86	Dollars	3,996 86

TREASURY DEPARTMENT.
First Auditor's Office, December 20, 1855.
W. B. HART.

TREASURY DEPARTMENT,
Comptroller's Office, December 24, 1855.
JOHN BEDEL.

Know all men by these presents that we, Levi S. Humphrey, of the city of Monroe, n the county of Monroe and State of Michigan, as principal, and Daniel S. Bacon, harles M. Humphrey, William V. Studdiford, Lewis Darrah, Harvey V. Mann, and efferson G. Thurber, all of Monroe County and State of Michigan, as sureties, are held nd firmly bound unto the United States of America in the full and just sum of twenty housand dollars, lawful money of the United States of America; to which payment rell and truly to be made we do bind ourselves and each of us our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this first day of February, in the year of our Lord one thousand eight hundred and forty-five.

Whereas the President of the United States has nominated, and by and with the dvice and consent of the Senate, appointed the said Levi S. Humphrey marshal of he United States in and for the district of Michigan, to have and to hold the said ffice, with all the powers, privileges, and emoluments to the same of right appertaining, for the term of four years from the fifteenth day of January, 1845, as in and by a ommission under the hands of the President and the Secretary of State, and the seal f the United States bearing date the fifteenth day of January, in the year of our ord one thousand eight hundred and forty-five, may more fully appear.

Now, therefore, the condition of this obligation is such, that if the said Levi S. umphrey has truly and faithfully executed and discharged, and shall continue truly nd faithfully to execute and discharge all and singular the duties of said office according to law, then the above obligation to be void and of none effect, otherwise to and remain in full force and virtue.

[L.S.] L. S. HUMPHREY.
[L.S.] D. S. BACON.
[L.S.] C. M. HUMPHREY.
[L.S.] WM. V. STUDDIFORD.
[L.S.] LEWIS DARRAH.
[L.S.] H. V. MANN.
[L.S.] JEFFERSON G. THURBER.

aled and delivered in the presence of—
C. C. JACKSON.
NELSON MONROE.
LOOMIS PALMER.

STRICT OF MICHIGAN, *ss.:*

The form of the within bond is approved this 1st day of February, 1845.

GEO. C. BATES,
Attorney of the United States for the District of Michigan.

STRICT OF MICHIGAN, *ss.:*

Upon evidence furnished me, which is satisfactory, I approve the sureties to the thin bond as sufficient for the amount thereof, and order the same to be filed and corded.

ROSS WILKINS,
Judge of the District Court U. S. for District of Michigan.

DETROIT, *February* 4, 1845.

I, John Winder, clerk of the circuit court of the United States for the seventh circuit and district of Michigan, do hereby certify the foregoing to be true copies of the originals now on file in my office.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said circuit court this fifth day of February, in the year of our Lord one thousand eight hundred and forty-five. [L. S.]

This claim, as represented in the papers and report of the Committee of Claims in the House in the Forty-fifth Congress, seemed to have some persuasive equities.

The claim as it is shown to be by the records, of the correctness of which there is no doubt, is as follows:

Levi S. Humprey was appointed United States marshal for the district of Michigan July 22, 1844, to serve until the end of the next session of the Senate.

January 5, 1845, he was again appointed and commissioned as United States marshal for same district, to serve for four years, and executed his bond, according to law, February 1, 1845.

David S. Bacon was a surety on the bond given under his first appointment and on the bond given for the four years' appointment.

The bond was for the sum of $20,000, and recited the appointment and commission for four years, and was conditioned "that if the said Levi S. Humphrey has truly and faithfully executed and discharged and shall continue truly and faithfully to execute and discharge all and singular the duties of said office according to law, then the above obligation to be void and of none effect, otherwise to be and remain in full force and virtue."

On February 4, 1846, said Humphrey was removed from office and was succeeded by Austin E. Wing, who was on that day appointed, gave bond March 7, 1846, and entered upon his duties March 10, 1846.

There was a balance of $3,996.86 in the hands of said Humphrey as such marshal, and for which he claimed credits to the full amount.

The final adjustment of his accounts was pending in the Treasury Department until December 21,1855, when it was adjusted by the First Auditor and sent to the First Comptroller, who, on December 24, 1855, admitted and certified to a balance due from him to the United States of $3,383.79, the Auditor having finally allowed credits to the amount of $613.07.

Immediately thereafter, and on January 3, 1856, certified transcripts of the First Auditor's statements of and reports upon the said accounts, with transcripts of the accounts and of the warrants drawn and drafts issued thereon, were transmitted to the Solicitor of the Treasury for suit against Humphrey and his sureties.

Suit was immediately thereafter, on May 2, 1856, begun in the United States circuit court for the district of Vermont against Mr. Humphrey, who had removed to that district. The sureties, not residing in that district, were not made defendants.

This suit was pending up to October 15, 1860, when a judgment was rendered against Mr. Humphrey for $6,454, being for said balance of $3,383.79, and $3,038.65 interest thereon, and $31.56 costs.

An execution was issued November 9, 1860, and returned "no property found"; defendant having proved insolvent.

On September 18, 1867, the Solicitor of the Treasury transmitted to Alfred Russell, United States attorney for the eastern district of Michigan, certified transcripts of the accounts of Mr. Humphrey, and directed suits to be instituted against his sureties. The sureties not having been

made defendants in the suit against Humphrey, the suit against them was brought on the original cause of action. The United States district attorney reported all the sureties probably insolvent except Daniel S. Bacon, deceased, and that his estate was in process of administration. The State courts of Michigan held that the claim was barred by limitation, the probate court having to receive the account, and the State supreme court having held that the discretion to receive or reject the account rested wholly in the probate judge. Suits, both in chancery and at law, were then begun on February 22, 1868, in the United States circuit court against Walter C. Bacon, executor and trustee, *et al.* On December 10, 1868, the defense of limitation was overruled, and a proposal of Walter C. Bacon, executor, &c., to compromise the suits by paying $3,000 in satisfaction of the claim for the balance and interest, amounting, October, 15, 1860, to $6,412.44, exclusive of costs, as found in the judgment against said Humphrey, was transmitted to the Solicitor of the Treasury favorably recommended. In the manner prescribed by the law, the proposal was considered by the Treasury officials, was accepted, and on December 28, 1868, the acceptance was authorized, and the money was duly paid into the Treasury, and the adjustment was duly certified, and the account closed on the books of the Treasury.

Your committee find that there was delay, but cannot say that the delay was wholly or to any considerable extent the fault or act of the government officials.

Mr. Humphrey was removed from his office. His sureties must have known of this. It was their business to know this, and, further, to ascertain whether his accounts were finally adjusted. Their adjustment was pending in the Treasury up to December 24, 1855. Mr. Humphrey was given ample time within which to make proof according to law and the regulations of the department as to the correctness and justice of the credits he claimed. It was finally adjusted, and suit at once commenced against Mr. Humphrey, and he had up to October 15, 1860, within which to make every legitimate defense. Judgment was rendered against him for $6,454, and could not be made. Then there was a lapse of nearly seven years before proceedings were commenced or ordered against the surety, Bacon.

The claim was for the balance and interest, which must then have amounted to nearly $8,000. The executor of the estate voluntarily made an offer of compromise to pay $3,000 in full satisfaction of the claim. There were then only three courses open to the executor. The first was to test the claim in the courts on the pending suits, and abide the judgment; the second was to secure the most favorable compromise; and the third was to appeal to Congress for relief against the pending liability, and present to Congress all the equities.

He voluntarily chose the second course, and made the offer of compromise, which was accepted, in view of all the equities and hardships in the case. There is nothing to show that the executor acted in bad faith, or was persuaded into a compromise by the officers of the government.

Full eight years after this compromise, Mrs. Custer presents to Congress her petition asking to have the compromise money returned to her, and makes a strong appeal to the sympathies of Congress to restore to her that sum.

There can be no claim in this case.

The recorded facts contradict the assumption of any claim proper.

If the sum be restored to her, it must be done as a mere gratuity.

Your committee recognize the sympathy due and felt by a noble people to and for the widow of a gallant and faithful officer of the Army, whose life was sacrificed in deadly hand to hand combat with the savage Indians. They have provided by the pension laws what is and has long been considered the proper bounty or gratuity in money for such services and loss.

Your committee are, therefore, constrained to recommend that this bill be indefinitely postponed, and the claim presented in said bill be not allowed, and this report be approved.

O

'TH CONGRESS, 2d Session. | SENATE. | REPORT No. 247.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 11, 1880.—Ordered to be printed.

Mr. HARRIS, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1267.]

e Committee on Claims, to whom was referred the petition of P. L. Ward, widow and executrix of William Ward, deceased, of Norfolk, Va., asking for compensation for certain provisions furnished to the Navy of the United States, and certain quartermaster stores furnished the Army of the United States, under contract, have had the same under consideration, and submit the following report:

The petition states that petitioner is the widow and executrix of Willm Ward, deceased. That in June, 1860, Willlam Ward entered into written contract with the United States for supplying fresh beef and egetables to the Navy at the Norfolk, Va., station, and that under said ontract her late husband and testator, on or about the 21st January, 861, supplied the United States ship Plymouth with the articles named the amount of $275.13, for which no payment was ever made, and she fers to the records of the Navy Department for the proof. The comittee sent the petition to the Navy Department with a request for such formation in respect to this claim as the records of that department ould furnish, and received from the Secretary the following reply:

NAVY DEPARTMENT,
Washington, February 5, 1880.

SIR: I have the honor to return herewith the petition of Mrs. P. L. Ward, asking r payment of $275.13, on account of fresh beef and vegetables supplied by her late usband, William Ward, of Norfolk, Va., for the use of the United States Navy, hich petition was referred to this department by the honorable Secretary of War, compliance with your request of the 15th ultimo.

The account of the late Mr. Ward is correct as shown by the records of the Bureau Provisions and Clothing in this department, with the exception that the fresh beef id vegetables referred to were delivered to the United States steamer Brooklyn inead of the United States steamer Plymouth as stated in the petition.

Very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. I. G. HARRIS,
United States Senate.

rom which the committee is satisfied that the articles were furnished ıder contract as stated in the petition, and have never been paid for, ıd that the amount, $275.13, is justly due the claimant and should be aid.

The petitioner also states that in the month of August, 1863, her testor entered into a verbal contract with Capt. Edwin Ludlow, of the

Quartermaster's Department of the United States Army, in the presence of Hon. L. H. Chandler, United States attorney for that district, and one other witness, for the purchase of sixty tons of hay, at $30 per ton, which was delivered by her said testator to the said Ludlow and used by the Army of the United States. That shortly after the delivery said Ludlow left that locality without paying for the hay, though often having promised so to do.

On the 12th December, 1866, her late husband and testator addressed a letter to the Quartermaster-General asking payment for this hay so furnished, reciting the facts of the contract and delivery of the hay, and the fact that no voucher was given, because Captain Ludlow said it was not necessary to give a voucher as he would pay for the hay as soon as he received funds, which he was daily expecting; but he left there without paying, and without giving any voucher for the sixty tons of hay, and that upon diligent inquiry he had never been able to ascertain the residence of Captain Ludlow since that time.

This letter is indorsed on the back as follows:

I most unhesitatingly indorse the within statement.

(Signed) L. H. CHANDLER.
United States District Attorney for Virginia.

(Signed) J. T. DANIELS.

On the 16th day of January, 1867, this account was made out upon the regular printed form furnished by the department, upon which the sale, delivery, and value of the hay, amounting to $1,800, and the loyalty of the claimant are proved by the affidavits of the then claimants, William Ward, L. H. Chandler, and J. R. Hunter; and the respectability and loyalty of the said Ward, Chandler, and Hunter are certified to by John E. Doyle, justice of the peace; and the respectability and loyalty of William Ward is also certified to by William W. Wing, postmaster.

The oath of allegiance to the United States of William Ward is also exhibited, and Henry M. Bowden, clerk of the corporation court, certifies to the citizenship, respectability, and loyalty of William Ward, and to the official character of John E. Doyle as a justice of the peace for said county.

The letter above referred to, addressed by William Ward to the Quartermaster-General, and the proof above referred to were sent to the committee by the War Department in answer to a letter from the committee asking for such information as the records of that department could furnish as to the justice of this claim. The following is the letter from the Secretary of War:

WAR DEPARTMENT.
Washington City, January 30, 1880.

SIR: Acknowledging the receipt of your letter of the 15th instant, referring for information memorial of Mrs. P. L. Ward for pay for certain quartermaster stores and beef delivered by her deceased husband, William Ward, in 1860 and 1863, to the Quartermaster's Department of the Army and the naval station at Norfolk, Va., respectively, I have the honor in reply to inclose herewith a letter from Mr. Ward, dated December 12, 1866, submitting his claim to the Quartermaster-General, which paper contains all the information on the subject the records of this department afford.

No action was taken upon the claim by the Quartermaster-General for the reason that it originated in Virginia, a State declared to be in insurrection during the rebellion.

Your letter and the memorial have been referred as desired to the honorable Secretary of the Navy, for information from his department.

Very respectfully, your obedient servant,

ALEX. RAMSEY.
Secretary of War.

Hon. ISHAM G. HARRIS,
Committee on Claims, United States Senate.

he Quartermaster-General takes no action upon this claim upon no
er than the cold, technical ground that the claimant was a resident
State declared to be in rebellion.

he proof is clear and conclusive that Quartermaster Ludlow con-
cted for this hay, equally clear as to the contract price amounting to
00, equally clear as to the loyalty to the United States of William
rd, who furnished the hay, and who was the husband and is the tes-
r of the petitioner, and equally clear that the hay has never been
l for.

does not clearly appear when William Ward died. It is certain that
as subsequent to 1867 and before 1878 when this petition was pre-
ed by P. L. Ward, widow, and executrix. She states that neither
late husband or herself were ever informed nor did they know of the
blishment of what is called the Southern Claims Commission, nor the
essity of presenting this claim to that tribunal, until after the expi-
on of the time within which it could have been presented; nor did
tioner know of the status of the claim until a few months before
presentation of this petition.

he committee are satisfied that the vegetables and beef, amounting to
5.13, were delivered under contract to the United States Navy, and
sixty tons of hay was sold and delivered to Quartermaster Ludlow,
30, amounting to $1,800, making an aggregate of $2,075.13; that the
e were never paid for, and that the claimant was loyal to the United
es, and that this sum is justly due to the claimant and should be
l; and therefore the committee report the accompanying bill, and
mmend that it pass.

O

ONGRESS, } SENATE. { REPORT
'ession. } { No. 248.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 11, 1880.—Ordered to be printed.

RRIS, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 2269.]

mittee on Claims, to whom was referred the bill (H. R. 2269) for the of Calvin Bronson, of Toledo, Ohio, submit the following report:

acts necessary to be noticed in respect to this claim are briefly By section 93 of the act of 30th June, 1864, 13th Statutes at page 270, the tax imposed on smoking tobacco, the subject of m, was 25 cents per pound.

e 1st section of the act of March 3, 1865, the tax was increased nts per pound, 13th Statutes at Large, 477, and by section 18 of t, page 487, it is provided that this act shall take effect on the il, 1865.

laimant manufactured some 110,000 pounds smoking tobacco in th of March, 1865.

n 90 of act of 30th June, 1864, page 262, requires manufact- make their returns to the assessor on Wednesday of every week, mount and kinds of tobacco manufactured in the week ending y, and requires the assessor to assess the same immediately er, and that the tax so assessed to be paid within five days after ent. The claimant returned to the assessor on Wednesday of ek in March, 1865, the tobacco manufactured during the week, red by the act of 30th June, 1864, and the same was assessed nts per pound, in strict obedience to the requirements of the law day.

diately after each assessment the claimant proposed to pay the assessed, tendering the money, but in disregard of the law the r refused to receive weekly payments from claimant, saying that l not be bothered with payments made weekly; that he would eive them monthly.

obacco having been reported, inspected, and assessed, was im- ly removed from the manufactory to a warehouse of claimant, lf mile distant.

the act of March 3, 1865, went into effect, and after the assess- twenty-five cents per pound had been collected, this lot of to- as reassessed under the act of March 3, 1865, the additional sum ents per pound, amounting to $11,211. This assessment the t refused to pay, because it was illegal.

ne, 1865, the collector of the district seized the tobacco manu- with a large amount of tobacco of the claimant, on the ground imant had in *May, 1864, made* a pretended sale of a large amount

of tobacco to his brother, David Bronson, to avoid a higher rate of tax imposed by the act of June 30, 1864, and the additional ground that he refused to pay the additional tax of ten cents per pound on this lot of tobacco.

Immediately after this seizure the claimant came to Washington and requested the Commissioner of Internal Revenue to send a special agent to Toledo to examine and report the grounds of this seizure. Messrs. Payne and Hawley, special agents of the department, were sent to Ohio for that purpose. On the 22d September, 1865, Benjamin Payne makes the following report:

TOLEDO, OHIO, *September* 22, 1865.

I, Benjamin Payne, having been appointed by the Commissioner of Internal Revenue special agent to investigate the charges against Mr. Calvin Bronson, of Toledo, Ohio, hereby certify that I have carefully examined all the business transactions of the said Bronson connected with the Revenue Department, and that I have nowhere found fraud or design on his part to defraud the government. I further certify that the seizure of his goods by the collector was, in my opinion, unnecessary.

(Signed) BENJAMIN PAYNE,
Special Agent, Treasury Department.

But in addition to this Mr. Payne decided that the additional tax of ten cents per pound was legal, due the government, and must be paid. Under protest claimant paid it, giving Mr. Payne notice at the time, in addition to his protest that he would appeal to the Commissioner to refund the tax so illegally demanded.

The law prohibited the claimant from instituting suit against the collector for the money thus illegally collected from him until after he had made his application to the Commissioner of Internal Revenue to refund it; but at the end of six months after making such application (Revised Statutes, 3226), claimant had the right to sue without a decision of the application, but claimant says he did not sue because the collector was a defaulter, and soon after the collection of this tax he absconded.

The records of the office of the internal revenue collector show that the collector was a defaulter to the amount of about $30,000, and in May, 1866, absconded.

Claimant made his application to the Commissioner and clearly proved that this lot of tobacco was manufactured in March, 1865; that it was reported on Wednesday of each week as manufactured, and immediately thereafter assessed for tax under the then existing law; that the tax was payable in March under the law; and that the money was tendered to pay this tax, but not received, only because the collector refused to be bothered with weekly payments. On the 5th of January, 1870, this claim is indorsed.

Examined and allowed and submitted by—

J. T. VINSON.

Allowed March 12, 1870.

W. H. SMITH,
Solicitor.

On the 7th July, 1870, E. P. Gaines, chief of Internal Revenue Division of Secretary's office, reviews all the facts in the case, and in conclusion says, that while this payment of $11,211 was not made on what was strictly a legal compromise, the Secretary having not approved it, yet the seizure of the factory and tobacco of claimant was pending, and the payment of this tax was demanded; and in order to get his property released from seizure he paid the tax, and his property was released from seizure; and argues that if the seizure case had been prosecuted the government might have recovered; therefore, he says it is unjust for claimant to demand that the tax should be refunded, and recommends that the case be returned to the Internal Revenue office for re-examination. On the 7th July, 1870, the Assistant Secretary of the

ısury returned the papers to the Commissioner, requesting a re-
nination of the case.

n the 1st December, 1870, the Acting Commissioner of Internal Reve-
addressed the following note to Joseph R. Swigart, esq., United
es collector, 10th district, Toledo, Ohio:

t: Refunding claim of C. Bronson for $11,211 has been fully considered, with
ıe accompanying papers and the brief of counsel for the claimant, and rejected
ıe solicitor and by me.

Respectfully,

J. W. DOUGLASS,
Acting Commissioner.

he claimant then petitioned Congress to refund this tax of $11,211,
ging that it was illegally assessed and collected from him.

) reach the justice of this case three questions must be determined—
ırst. Was this additional tax of ten cents per pound, amounting to
211, legal?

econd. Were there just grounds of seizure and forfeiture of the prop-
of claimant? and,

ıird. Was this $11,211 paid as a legal and just compromise of the
ıre case?

is shown by the affidavits of the revenue officers of that district and
he affidavit of claimant that this tobacco was manufactured in the
th of March, 1865, and that all that was produced each week was
rted on Wednesday, assessed by the assessor, and the assess-
t handed over to the collector for collection of the tax, as required
he act of June 30, 1864; and that the claimant tendered the money
ediately thereafter each week to pay the tax so assessed, but the
ector refused to receive it because "he was not willing to be bothered
ı weekly payments"; that at the end of the month he did receive
tax so assessed, the tobacco having been immediately after assess-
t removed from the manufactory to the warehouse for sale. The
mittee is satisfied that this tobacco having been manufactured,
rted, and assessed weekly before the 1st day of April, 1865, was
erly assessed at 25 cents per pound, and that no subsequent addi-
al assessment was legal.

ence the failure to pay this subsequent illegal assessment of 10
s additional under act of 3d March, 1865, constituted no just or legal
ınd of seizure, and if the report of the special agents of the Internal
enue Department and the action of that department upon them are
th anything, then there was no fraud in the sale of tobacco by claim-
to his brother, David Bronson, in 1864; hence no judgment of for-
ıre could have been obtained upon that ground, and these are the
grounds on which the seizure rested. Upon the report of the
ial agents sent to investigate the reasons of the seizure the Com-
ıioner directed the district attorney to dismiss the case, and it was
ıissed, and the committee thinks properly dismissed, because illegal,
ecessary, vexatious, and unjust. The sum claimed nor any other
was ever demanded of claimant as a *compromise* of the seizure
; it was demanded as a tax, collected and receipted for as a tax, and
er solemn protest paid as a tax.

ıis tax having been illegally assessed, and its payment extorted by
ıeizure of a property (worth many times the amount claimed) equally
al, the committee is of opinion that it should be refunded, and there-
report the bill back with the recommendation that it pass.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 249.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 11, 1880.—Ordered to be printed.

Mr. JONES, of Florida, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill S. 522.]

The Committee on Naval Affairs, to whom was referred the bill (S. 522) relative to the distribution of prize-money, submit the following report:

The committee have given to this bill and the subject to which it relates patient consideration, and have come to the following conclusion as the result of their deliberation.

All prizes belong, primarily, to the government, and any person claiming to participate therein must show a grant from the United States; and, therefore, it is the prerogative of the government, of its mere volition, to designate all parties among whom prizes are to be distributed. Consequently Congress, by an act approved April 23, 1800, entitled "An act for the better government of the Navy of the United States," determined on a distribution of the proceeds of prizes upon a scale not very equitable in its character, and yet strong enough to have remained undisturbed until June 30, 1864, when an act was passed to "regulate prize proceedings and the distribution of prize-money," changing the proportions of such distribution, and fleet-captains were admitted to participation therein. The last-named act passed both houses of Congress without debate in either, and your committee can only infer from the position of the fleet-captain, as being the chief of the staff of the commanding officer of the fleet, that this was the ground upon which only his title to a share of prize-money could be based. As his staff duty prevented his participation in the captures, it seemed to Congress wise to give him a share of the general prize-money of the squadron. If the allowance went upon the ground of his being a staff officer, then it did not go far enough in its scope.

The committee do not see why the same reason which led to this allowance of participation in the prize-money should not open the door also to the other officers of the staff of the commander-in-chief, viz, fleet-surgeons, fleet-paymasters, and fleet-engineers, who are necessarily such, doing duty and remaining with the flag-ship, in their several responsible positions. Indeed, the claim of the fleet-surgeon seems to be based even upon higher ground, for he was officially created as far back as 1828, while the fleet-captain, as such, appears to have been first recognized in 1864.

Fleet-paymasters and fleet-engineers were created in April, 1864, by law, so that the fleets should have capable and responsible heads to each of these branches of the service.

Fleet-surgeons, fleet-paymasters, and fleet-engineers, therefore, should stand upon the same footing with fleet-captains, and, in the judgment of your committee, should be entitled to the like advantages.

Your committee have not been able to ascertain accurately the amount of money which may be required to meet the demands of this claim for prize-money, but actuated by a desire to present to the Senate all the information which the committee have obtained upon the subject, your committee hereto annex the letters of the Secretary of the Navy and of the Fourth Auditor of the Treasury Department as an appendix to this report. Your committee therefore report the accompanying bill (S. 522) as a substitue for Senate bill 486, and recommend its passage.

Appendix.

NAVY DEPARTMENT,
Washington, April 18, 1878.

SIR: I have the honor to acknowledge the receipt of your letter of the 2d instant, inclosing bill to extend the provisions of the act or June 8, 1874, in relation to correcting errors in prize-lists, to all fleet-officers, and asking as to the number likely to be benefited thereby.

The accompanying statements from the Bureaus of Steam-Engineering, Medicine and Surgery, and Provisions and Clothing, indicate the probable number of fleet-officers that would be benefited by the bill.

I trust you will pardon me for making a suggestion in regard to the bill. If passed as introduced, the payments to these officers would come out of the naval pension fund. The interest on this fund, from which naval pensions are paid, is barely sufficient for that purpose. All such depletions as that proposed are detrimental to the fund. I would therefore respectfully suggest the amendment of the bill by adding a proviso that any payments to be made shall be paid out of any money in the Treasury not otherwise appropriated.

The payments would involve a large sum.

I have the honor to be, very respectfully,

J. C. HOWELL,
Acting Secretary of the Navy.

Hon. WM. PINKNEY WHYTE,
United States Senate.

NAVY DEPARTMENT, BUREAU OF MEDICINE AND SURGERY,
April 8, 1878.

The following is a statement of the number of fleet-surgeons likely to be benefited by the accompanying bill:

Mississippi squadron: E. Gilchrist, from August, 1862, to December, 1862. N. Pinkney, from December, 1862, to July, 1865.

East Gulf squadron: G. R. B. Horner, from May, 1861, to May, 1863. E. Gilchrist, from June, 1863, to April, 1865. D. Harlan, from May, 1865, to July, 1865.

West Gulf squadron: J. M. Foltz, from January, 1862, to August, 1863. J. C. Palmer, from August, 1863, to September, 1865.

North Atlantic squadron: T. Dillard, from April, 1861, to January, 1862. W. M. Wood, from January, 1862, to February, 1864. J. L. Fox, from February, 1864, to December, 1864. L. B. Hunter, from January, 1865, to July, 1865.

South Atlantic squadron: George Clymer, from May, 1861, to July, 1863. William Johnson, from July, 1863, to June, 1865.

NAVY DEPARTMENT, BUREAU OF STEAM-ENGINEERING,
Washington, April 9, 1878.

IR: The following is a statement of the number of fleet-engineers likely to be ben-
ed by the accompanying bill, showing also squadrons served in, dates of orders,
es of detachment, and length of time on such duty:

Names.	Squadrons.	Date of order.	Date of detachment.	Time on such duty.		
				Years.	Months.	Days.
o. Zeller	East Gulf	May 19, 1863	July 15, 1865	2	1	26
ert Danby	South Atlantic	May 19, 1863	June 23, 1866	2	1	4
. Garvin	North Atlantic	May 19, 1863	Aug. 30, 1864	1	3	11
H. Shock	West Gulf	May 19, 1863	July 10, 1865	2	1	21

Very respectfully,

WM. H. SHOCK,
Chief of Bureau.

enator W. P. WHYTE,
Washington, D. C.

NAVY DEPARTMENT, BUREAU OF PROVISIONS AND CLOTHING,
Washington, D. C., April 9, 1878.

on. WM. PINKNEY WHYTE, *United States Senate:*

The following are the names of the officers of the Pay Corps who performed the duty
fleet-paymaster during the rebellion, as called for in your note of the 2d instant:
Edward T. Dunn, Western Gulf squadron, from January 17, 1863, to April 3, 1865.
H. M. Heiskell, North Atlantic squadron, from April 30, 1864, to July 15, 1865.
George F. Cutter, Eastern Gulf squadron, from April 2, 1863, to November 18, 1863.
James H. Watmough, South Atlantic squadron, from June 30, 1864, to June 2, 1865.
John O. Bradford, South Atlantic squadron, from June 1, 1863, to May 2, 1864.
. George Harris, Eastern Gulf squadron, from October 15, 1864, to January 14, 1865.
ohn S. Gulick, Mississippi fleet, from May 1, 1865, to August —, 1865.
ohn V. B. Bleecker, Eastern Gulf squadron, from October 3, 1863, to May 20, 1864.
lisha W. Dunn, Mississippi fleet, from September 9, 1862, to May 1, 1865.

I have the honor to be, very respectfully, your obedient servant,

GEO. F. CUTTER,
Paymaster-General, United States Navy.

TREASURY DEPARTMENT, FOURTH AUDITOR'S OFFICE,
April 26, 1878.

IR: In reply to your inquiry of the 24th instant, I have the honor to inclose a copy
a letter addressed to the Navy Department by this office on the 17th instant, in
wer to a similar inquiry made by the honorable Secretary of the Navy, accom-
ied by lists similar to those inclosed by you. For reasons therein given, you will
how difficult it is to make now any close approximation of the sum that would be
uired.

n my judgment, a fair approximation would be the amount paid to fleet-captains
ltiplied by three, viz, $270,787.74. I do not think that any less amount than this
ld be sufficient.

he amount now standing to the credit of the Navy pension fund appears, by the
ks of this office, to be $477,463.42, not taking into consideration any demands that
e may be upon said fund for the current fiscal year.

he lists inclosed by you are herewith returned.

Very respectfully,

STEPHEN J. W. TABOR, *Auditor.*

on. WM. PINKNEY WHYTE,
United States Senate.

TREASURY DEPARTMENT, FOURTH AUDITOR'S OFFICE,
April 17, 1878.

SIR: In reply to your request of the 10th instant, I have the honor to state that this office is unable to supply you with the amount of prize-money that would accrue to the fleet-officers whose names are given with your letter in the event of the passage of bill extending to them the provisions of the act of June 8, 1874, unless supplied by you with a list of all the prizes in which you would authorize them to share; and this would involve a large amount of examination and computation, and occupy considerable time in both the Navy and this department.

I find, however, that the total amount allowed to fleet-captains for prize-money and bounty accruing from captures during the late war is $90,262.58.

Upon examination of lists, it is found that in many instances fleet-captains have not shared in captures where the names of other fleet-officers, regularly assigned as such, are found, and in some such cases the names furnished with your letter are borne upon the lists as fleet-officers.

The amounts which these officers have already received in the ratio of their salaries, in cases where the flag-ship shared in the capture, would, of course, be deducted from any amount that might accrue to them under the proposed bill.

The lists are herewith returned.

Very respectfully,

S. J. W. TABOR, *Auditor.*

Hon. R. W. THOMPSON,
Secretary of the Navy, Navy Department.

THE SENATE OF THE UNITED STATES.

FEBRUARY 11, 1880.—Ordered to be printed.

ſ Colorado, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany bill S. 768.]

dred millions of acres of land are embraced in the arid United States.

ɜ vast tract are the Territories of Arizona, Idaho, Montana, Utah, Wyoming, and the States of Colorado and Nevada. ther States and Territories are also included.

r cent. of this territory has been sold by the United States, remain unsold for years to come unless some means are ply it with water.

ɜys made by the government of portions of this territory, ɜ made of the remaining portions, it has been determined ro hundred millions of acres are broken and mountainous even with an abundance of water, agriculture cannot be ccessfully. There are about two hundred millions of acres ıp of—

lands which are covered with cinder, scoria, &c.

nds, without soil and vegetation.

plains of barren and drifting sand.

ı us of the lands of the great plains and valleys five hun- of acres, on a large part of which valuable crops could be ɜr were supplied for irrigation.

sand acres have already been reclaimed by utilizing the ers and streams, and spreading them over the land during the growth of the crops. But owing to the limited supply ch can be made available from these sources under the le conditions, probably not more than 3 per cent. of these cres can be reclaimed. What use can be made of the 5,000,000 acres? They are not, it is true, entirely value- ɜ now, and will be hereafter, used still more for pasturage ıey can never, to any great extent, be sold for this purpose. ı of grass is so scanty that it requires from 15 to 25 acres ırt of each head of neat cattle; and many thousand acres from 50 to 100 miles from living water, and are thus un- ın for pasturage. But little will ever be realized by the rom the sale of these lands, until it is demonstrated that supplied by artesian wells.

e of Colorado, alone, on the great plains east of the Rocky ɜe forty millions of acres of land. Much of it will produce, 5 to 30 bushels of wheat per acre.

It is in view of the facts which have been given that Congress is asked to appropriate fifty thousand dollars for boring artesian wells. Private enterprise will not undertake the work, which is of an experimental character, as the land is all owned by the government; but let it be demonstrated that water can be supplied in this way, and citizens will purchase the land of the government, and wells will be bored by individuals and corporations, and in time vast tracts of land will thereby be reclaimed.

Should it be found that artesian-well water can be made available, these lands, from being the most barren on the continent, will become the most attractive to farmers. Their crops would not be subject to the vicissitudes of rainfall and drought. The chances of failure of crops would be greatly diminished, and the interest in agricultural pursuits in that section would be immensely stimulated.

Although these lands are as unproductive as much of the land which has been granted to other States under the Swamp Land acts, no grant has been made to the States, where the arid lands are situated, to aid in their reclamation. Had this been done, there would have been no occasion for an appropriation for the purpose of boring artesian wells. Thus aided, the States and Territories of the arid region would themselves have made thorough explorations for water.

The cost of boring wells is, of course, somewhat dependent on the character of the work and accessibility to materials and supplies. Estimates have been made by persons engaged in the business, showing that artesian wells can be sunk 1,000 feet deep for $3,000, exclusive of tubing; 2,000 feet for $10,000, and in an increasing ratio for greater depths.

Some of the ablest geologists in the country have expressed an opinion that flowing wells can be obtained in many localities on the plains east and west of the Rocky Mountains.

The amount to be appropriated by this bill is insignificant, compared with the magnitude of the results. Should the experiment meet with success, millions of acres of land, which now lie waste and unproductive, and which will continue in that condition without water, will be converted into fruitful fields and gardens, and be adorned with villages and cities, the happy homes of a prosperous people.

Congress has been advised by the Secretary of the Interior, in his report submitted November 1, 1877, that the pre-emption and homestead laws are no longer applicable to what is known as the desert lands of the United States.

The Commissioner of Agriculture, in his last report, has specially recommended the sinking of artesian wells by the government with a view to the reclamation of these deserts. The bill under consideration simply looks to giving effect to these recommendations. It is an experiment in the right direction, and should receive the early sanction of Congress.

The committee therefore report in favor of the passage of the measure.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 251.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 11, 1880.—Ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill S. 557.]

The Committee on Naval Affairs, to whom was referred the bill (S. 557) to authorize the payment of prize-money to the captors of the steamboat New Era No. 5, having considered the same, beg leave to report:

The Journal of the Senate shows that a bill precisely similar in every respect was first introduced in the Forty-third Congress, and referred to your committee, but no action was taken upon it in that Congress.

It was again introduced in the Forty-fourth Congress, and referred to your committee, and on the 15th of February, 1877, Mr. Cragin, then chairman, reported the bill to the Senate with a recommendation *that it ought not to pass.*

In the Forty-fifth Congress it was again introduced, and it was referred to your committee as before. On the 20th of February, 1879, Mr. Sargent, the then chairman of the committee, reported it to the Senate with the recommendation *that it ought not to pass.*

And now, in the Forty-sixth Congress, it is again reintroduced and again referred to this committee, after it has *twice* given it careful consideration, and reported against its passage.

The rules of the Senate expressly provides that:

> Whenever a claim is presented to the Senate and referred to a committee, and the committee report that the claim ought not to be allowed, and the report shall have been agreed to by the Senate, it shall not be in order to move to take the papers from the files for the purpose of referring them at a subsequent session, unless the claimant shall present a memorial for that purpose, stating that new evidence has been discovered since the report, and setting forth the new evidence.

This rule, the committee are of opinion, has been palpably disregarded in this case.

There was no memorial referred to the committee, as required by the rule, setting forth that new evidence had been discovered since the former report was made. The only papers before the committee relating to the case were those that were before the committee of the last Congress, and upon which they based their adverse report.

From a careful review and re-examination of these papers your committee are now more than fully convinced that it did not err in its former decision, and they are still of the opinion that the bill ought not to become a law. The communications from the War and Navy Departments

filed with this case are not of such a character as would warrant your committee in making any other than an unfavorable report.

Your committee, therefore, unanimously report adversely upon the bill, ask to be discharged from its further consideration, and recommend that it be indefinitely postponed.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 252.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 11, 1880.—Ordered to be printed.

Mr. HEREFORD, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1268.]

The committee to whom was referred the petition of James Vance and William Vance, asking for payment for use of certain buildings at San Antonio, Tex., report as follows:

The same matter was before the Senate in the Forty-fifth Congress, and a favorable report was made thereon by the Committee on Claims.

This claim is for rent for the use and occupation of certain buildings in San Antonio, Tex., from the 5th day of August, 1865, to the 20th day of August, 1866, as well as the rental of a certain dwelling-house from September 1, 1865, to April 30, 1866.

The principal buildings, exclusive of the dwelling-house, were five in number, containing twenty-two rooms; two of these were store-houses, each 30 feet wide by 110 feet deep, with two barracks, each 30 feet wide and 167 feet deep. These buildings had been rented before the war of the claimants, the government paying rental therefor at the rate of $625 per month.

At the time actual hostilities ceased, which was before the 5th of August, 1865, these buildings were in a damaged condition, and the claimants allege that at the request of Capt. H. S. Clubb, assistant quartermaster, they repaired the buildings at an expense of between seven and eight thousand dollars in gold; that such repairs were made for the purpose of inducing the government to rent the buildings. On the 5th day of August, 1865, the government, by its assistant quartermaster, took possession of the buildings before mentioned as well as the dwelling-house of the claimants.

The evidence is satisfactory on the question of possession having been given the government by the claimants.

It was in no sense a taking of possession by force, or without the consent of the owners. It is evident that the claimants and the assistant quartermaster understood that rent was to be paid for the use and occupation of the premises. The claimants allege that there was no positive agreement as to the amount to be paid, but it was supposed that the amount allowed would be the same as had been paid before the war. The assistant quartermaster reported the use and occupation of the premises to the department at Washington, with a diagram of the buildings, streets, &c., and under the head of "Rate of hire or compensation," entered "Rate not settled." This statement was made monthly during the time these buildings were so occupied, and the testimony shows that it was the intention of the quartermaster and the claimants that

rent was to be paid at such sum as should be fixed at Washington, and there is nothing in the case that will warrant the idea that it was taken possession of by force, or without the consent of the owners first obtained. It is evident that this was the belief of the claimants (that rent was to be paid), for, in the spring of 1866, the claimants presented the claim for rent of the premises, and were informed, May 9, 1866, that "under existing decision of the War Department, rent in States heretofore in rebellion cannot be paid by the Quartermaster's Department." This, the department claims, brings the case within the rule laid down by the Supreme Court in the case of Filor *vs.* United States, 9 Wallace, page 45, and this is undoubtedly correct. The case of Filor *vs.* United States only decided that there was not such a contract as would entitle the plaintiff to sue in the Court of Claims, and it must be admitted that in this case the claimants have no standing in the Court of Claims. If they had they would doubtless go into that court.

Congress has uniformly allowed rent to claimants, where the premises occupied by the Army were occupied under contract.

It is, under the provision of law, the duty of the Quartermaster's Department to furnish quarters for officers, and the Quartermaster's Department must provide store-rooms, warehouses, depots for its supplies, and it cannot be said that while the Quartermaster's Department might contract for officers' quarters it could not contract for a building in which to put the stores indispensable to the existence of the Army rank and file. If Congress is justified in recognizing as valid the contract made for the convenience of the officers of the Army, and the clerical force necessary for the efficiency of the Army, it certainly will be justified in recognizing the contracts made by the same officers for the rental of buildings, without which the Quartermaster's Department would hardly have been able to discharge the duties imposed on it by law, the least of which was the furnishing quarters for officers and their staff.

The claimants were, indeed, to expend a large amount of money in repairing the buildings, putting them in condition to be occupied by the government, and under a contract with the assistant quartermaster the claimants surrendered to the government the possession of the buildings at a time when war existed only in name and not in fact.

Such contract was made about two months after the Government of the United States had officially notified the governments of Europe that the war of the rebellion was at an end, that the authority of the United States was regarded in all of the late rebellious States. No armed force appeared against the government in the State of Texas after August 1, 1865, and the government did not after that time exercise the right (not denied to it in war) to seize the property of the citizens of disloyal States and occupy the same without compensation to the owners.

Under all the circumstances, your committee think it was the duty of the government, on the 9th of May, 1866, if the intention was to repudiate the contract, to have surrendered to the claimants the possession which had been acquired under a promise to pay rent, and, not having so surrendered the premises, your committee think that it does not comport with the dignity of the government to say that such rent ought not to be paid.

The government did pay rent for the premises, exclusive of the dwelling-house, after August 20, at the rate of $5,000 per annum for a period, and subsequently at the rate of six thousand dollars per annum, and your committee think that the rent for the buildings so occupied, exclusive of the dwelling, ought to be paid at the rate of five thousand dollars

er annum, and that the evidence shows that the rent of the dwelling-house was worth at least fifty dollars per month, making the total rent due the claimants the sum of five thousand two hundred dollars for the rental of the property, exclusive of the dwelling-house, and three hundred dollars for the use of the dwelling, or a total of five thousand five hundred dollars.

The committee therefore recommend that amount be allowed in full of all claims of claimants, and report the accompanying bill.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 11, 1880.—Ordered to be printed.

r. LOGAN, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill S. 323.]

he Committee on Indian Affairs, having had under consideration Senate bill No. 224, Senate joint resolution No. 4, and Senate bill No. 1124, all for the relief of the Winnebago Indians of Wisconsin, report:

The committee recommend the indefinite postponement of Senate bill o. 224 and joint resolution No. 4, and recommend the passage of Sen-e bill 323, with amendments.

The Winnebago tribe of Indians formerly resided within the limits the State of Wisconsin, and by various treaties on and prior to June 5, 1838 (Revised Indian Treaties, 1001), conveyed to the United States l of their lands in that State. By the treaty of June 16, 1838, the nited States ceded to them a tract of land in the Territory of Minne-ota known as the neutral lands, and to which a claim in their behalf tached under one of the former treaties.

By the treaty of 1846 (*Ibid.*, 1004), the title of the Winnebagoes to e neutral lands was extinguished, and, in part consideration therefor, ey were given a tract of land on the Saint Peter's River, in Minnesota, stimated to contain about 879,600 acres. Their title in this tract was atirely extinguished by the treaty of 1855 (*Ibid.*, 1006), and in full com-ensation for the same the United States agreed to give them $70,000, nd to grant them, as a permanent home, a tract of land equal to eight-en miles square on Blue Earth River, in one of the most fertile egions in Minnesota, to which they removed, and where they were mmediately surrounded and pressed upon all sides by the whites.

Again, by treaty of 1859 (page 1011), in order to aid in their civiliza-on, and at the request of the tribe, townships 106 and 107, ranges 24 nd 25, and the two strips of land immediately adjoining on the east and orth, within their reservation, were authorized to be allotted in sever-lty to the members of the tribe, and it was provided that the remainder f their lands should be sold and the proceeds applied to their benefit.

Under these provisions allotments in severalty were made in 1861, and ertificates issued to them. At the outbreak of the rebellion in 1861, umbers of the Winnebagoes enlisted in the Army, and during the Sioux outbreak of 1862 the tribe maintained the most friendly relations th the whites. Their lands, however, were very desirably located for ttlement, and the settlers commenced a series of encroachments against e Winnebagoes, which finally rendered their condition unsafe, so that became necessary to remove the tribe from the State.

An act was accordingly passed by Congress, on the 21st of February, 1863 (12 Statutes, p. 658), providing for their removal and the sale of their lands for their benefit, and they were removed to the Missouri River in Dakota. On account of the proximity of this location to the Sioux, who were hostile to them, and their remoteness from the whites, among whom they preferred to live, the tribe became dissatisfied, and large numbers of them returned to the States, about one-half of whom settled in Wisconsin, as stated by the Commissioner of Indian Affairs, in a communication addressed to the committee.

Another treaty was made with the tribe in 1866 (see page 1014, Revised Indian Treaties), whereby the tribe was gathered together and settled upon a reservation in Nebraska, where they now reside.

Arising from these treaties, the Winnebagoes, as a tribe, have a fund of $883,249.58 in the Treasury, the income of which, at 5 per cent., is, by treaty provision, to be distributed to them in cash or supplies, as the President may direct.

By act of June 25, 1864 (13 Statutes, p. 172), it was provided—

> That the proportion of annuities to which the stray bands of Winnebago Indians would be entitled, if on their reservation, should be retained in the Treasury to their credit, from year to year, to be paid to them when they should reunite with their tribe, or to be used by the Secretary of the Interior in settling and subsisting them on any other reservation which might thereafter be provided for them.

The fund herein provided for was not reserved until 1876, when, by direction of Secretary Chandler, their estimated proportion ($\frac{1000}{2531}$) of the tribal annuities was retained, and has since been retained for them, amounting at the present time, in this proportion, to $48,249.17. This sum remains in the Treasury awaiting the direction of Congress.

The annuities so far to the tribe, from 1864 to 1875, inclusive, amount to $641,312.78; all of which, with a single exception, has been paid to the Winnebago Indians of Nebraska. Assuming that the tribe in Wisconsin would be entitled to their *pro rata* share, they ought to have received of this amount $253,383.12.

In 1873 and 1874 an appropriation was made (18 Statutes, p. 170) for the removal of the Winnebagoes of Wisconsin to a reservation to be purchased for them in Nebraska, adjacent to the reservation now occupied by the remainder of the tribe. There was expended in this removal, and subsistence and purchase of lands, $154,624.49, and retained to be expended in settling them on their new lands, $26,131.13, and about 860 of them were removed to Nebraska. The Wisconsin Winnebagoes, however, were dissatisfied with their new location, and all but two hundred and four of them returned to Wisconsin prior to January, 1876.

The Commissioner of Indian Affairs reports that there is now in the Treasury to the credit of the tribe, accruing under treaty appropriations for the fiscal year 1873 and prior years, the sum of $40,406.42, from which a sufficient amount should be withdrawn and paid to the Wisconsin band to equalize the payments heretofore made in excess to the tribes in Nebraska.

During the last fiscal year there was appropriated to the tribe in Nebraska the sum of $29,260.68, and to the Wisconsin Winnebagoes $14,901.79.

The committee, therefore, recommend the payment to the Wisconsin Winnebago Indians of $48,249.17, now in the Treasury, belonging to them, together with a sufficient sum to equalize the payments hereinbefore alluded to.

The committee also recommend that the proportion of annuity funds

:cruing from year to year hereafter should be applied to the Winneba-
›es in Wisconsin, until they shall have been refunded the amount due
ıem under the act of 1864.

The bill provides for a careful census of the Indians in Wisconsin, as
ell as the Winnebagoes in Nebraska, in order that a just division may
ɜ made.

By an act passed March 3, 1875 (18 Stats. at Large, 420), it is provided
ıat any Indian now in the United States, who is the head of a family,
r arrived at the age of twenty-one years, and who afterwards abandons
is tribal relations, shall be authorized to take a homestead under the
omestead laws, and shall still be entitled to receive his proportion of the
ribal annuities. These Winnebagoes of Wisconsin, to the number of
bout two hundred, have taken, and others are desirous of taking, home-
teads under this provision of the act of 1875, and therefore the provis-
›ns of the bill apply only to such as have taken or shall take home-
teads, having been carefully constructed for such Indians only.

A section is added against the alienation of these lands for a period
f twenty years. This provision is considered necessary to protect the
ndians having homesteads. The bill has been submitted to the Inte-
ior Department, and receives the sanction of the Commissioner of Indian
ıffairs and the Secretary of the Interior.

The committee, therefore, recommend its passage, with a single amend-
ıent to the last section, which is herewith reported.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.
Washington, April 13, 1878.

SIR: I am in receipt of a letter from the Hon. Angus Cameron, United States Sen-
te, dated January 9, 1878, inclosing, with other papers, for the consideration of this
fice, Senate Resolution No. 4, entitled "Joint resolution to aid the Winnebago In-
ians to obtain subsistence by agricultural pursuits, and to promote their civilization,"
ıd also Senate bill No. 224, bearing the same title.

Copies of the resolution and bill above named were referred to this office by the
on. W. B. Allison, chairman Senate Committee on Indian Affairs, and a report made
ıereon to the department on the 22d of February last, with regard only to the pro-
›sed appropriation of money.

There are, however, certain features of the case presented by the letter of the Hon.
r. Cameron, and accompanying papers, to which the attention of the office was not
ılled by the communication of Senator Allison, which require consideration and the
ıggestion of further legislation to meet the requirements of the case.

It appears from the papers presented that some two hundred of the Winnebagoes of
isconsin have taken homesteads in that State under the act of March 3, 1875, and
›w desire, among other things, to secure the payment to them of certain funds in the
reasury of the United States to their credit, together with an additional amount of
fty dollars each, to be drawn from the principal funds of the tribe; such payments to
ɜ made in anticipation of the benefits to accrue to them under the act above named
›on completion of their homestead title to the lands upon which they are located.

In order to reach a correct understanding in the matter, and with a view to secur-
g comprehensive legislation with regard to these Indians, it appears to be proper to
y before Congress and the department that portion of their tribal history connected
ith the creation of the funds of the Wisconsin band, and of the tribe in general.

The Winnebago Indians, formerly residing within the present limits of the State of
isconsin, by various treaties, on and prior to June 16, 1838 (Revised Indian Treaties,
01), conveyed to the United States all of their lands in that State; the United States,
r the treaty of June 16, 1838, ceding to them a tract of land in the Territory of Min-
›sota known as the *neutral lands*, and to which a claim in their behalf attached under
ıe of the former treaties.

By the subsequent treaty of 1846 (*Ibid.* 1004) the title of the Winnebagoes to the
eutral lands was extinguished, and, in part consideration therefor, they were given a
act of land on the St. Peter's River, in Minnesota, estimated to contain 879,000 acres.

Their title to this tract was in turn extinguished by the treaty of 1855 (*Ibid.*, 1006), and in full compensation for the same the United States agreed to give them $70,000 and to grant them as a permanent home a tract of land equal to eighteen miles square on the Blue Earth River, in one of the most fertile regions in Minnesota, to which they removed, and where they were immediately surrounded and pressed upon all sides by the whites.

It was provided by the treaty of 1859 (*Ibid.*, 1011), in order to aid in their civilization, and at the request of the tribe, that townships 106 and 107, in ranges 24 and 25, and the two strips of land immediately adjoining on the east and north, within their reservation, should be alloted in severalty to the members of the tribe, and that the remainder of their lands should be sold and the proceeds applied to their benefit. Under these provisions allotments in severalty were made in 1861, and certificates therefor issued to them. At the outbreak of the rebellion in 1861 numbers of the Winnebagoes enlisted in the Army, and during the Sioux outbreak of 1862 the tribe maintained the most friendly relations with the whites. Their lands, however, were very desirably located for settlement, and, urged on by a desire to obtain the lands and by their exasperation against the Indians in general, growing out of the Sioux outrages, the settlers commenced a series of encroachments and wrongs against the Winnebagoes, which finally rendered their condition so unsafe, that it became necessary to remove the tribe from the State. An act was accordingly passed by Congress on the 21st of February, 1863 (12 Stats., p. 658), providing for their removal and the sale of their lands for their benefit, and their removal to a reservation at Usher's Landing, on the Missouri River, in Dakota, was effected during the summer of 1863.

On account of the proximity of this location to the Sioux, who were hostile to them, and their remoteness from the whites, among whom they preferred to live, the tribe became greatly dissatisfied, and large numbers of them returned to the States, about one thousand of whom settled in Wisconsin.

The remainder of the tribe were gathered together under the treaty of 1866 (*Ibid.*, 1014), and settled upon a reservation in Nebraska, where they are now residing.

Arising from these treaties the Winnebagoes, as a tribe, have a fund of $883,249.58 in the Treasury, the income of which, at five per cent. is, by treaty provision, to be distributed to them in cash or supplies, as the President may direct.

By act of June 25, 1864 (13 Stats., p. 172), it was very justly provided "that the proportion of annuities to which the stray bands of Winnebago Indians would be entitled if on their reservation should be retained in the Treasury to their credit from year to year, to be paid to them when they should reunite with their tribe, or to be used by the Secretary of the Interior * * * in settling and subsisting them on any other reservation which might hereafter be provided for them."

For some reason not known to me no steps were taken under this act to create a reserve fund for the stray bands, all or nearly all of whom were in Wisconsin, until 1876, when, by direction of Secretary Chandler, their estimated proportion ($\frac{1000}{1000}$) of the tribal annuities was and has since been retained for them, amounting at the present time to $48,249.17, and which remains in the Treasury awaiting directory action by Congress.

The total annuities of the tribe from 1864 to 1875, inclusive, amount to $641,312.78, all of which, with the exception hereafter named, has been paid to the Winnebagoes of Nebraska.

On the basis above given the share of the Wisconsin band would have been $253,383.12.

In 1873 and 1874 about 860 of the Wisconsin band were removed to the tribal reservation in Nebraska, but of this number all but 204, together with other members of the tribe, had returned to Wisconsin prior to January, 1876.

There was expended in their removal and subsistence, and in the purchase of lands for them and improvements thereon, $154,624.49, and there was retained to be expended in settling them on their lands in Nebraska $26,131.13, all of which latter sum, together with the money expended in the purchase of lands, $30,868.87, and $16,718.75 expended in the erection of houses, or a total of $73,708.75, has inured to the benefit of the Winnebagoes in Nebraska. Out of the $253,383.12 to which the band under consideration are entitled under the treaty of 1864 they have therefore had $107,036.87, which is properly chargeable against them, leaving $146,346.25 due to the Wisconsin band under the act of 1864 all of which, as heretofore remarked, has been paid to the Winnebagoes in Nebraska.

During the year 1872, about $100,000 of the principal fund of the tribe was withdrawn and paid to the Winnebagoes in Nebraska. There is now in the Treasury to the credit of the tribe, accruing under treaty appropriations for the fiscal year 1873 and prior years, the sum of $40,406.42, from which a sufficient amount should be withdrawn and paid to the Wisconsin band to equalize the above payment to those in Nebraska.

The apportionment of annuity moneys between the bands the present year, was as follows:

To the Nebraska Winnebagoes	$29,260 68
To the Wisconsin Winnebagoes	14,901 79

While I do not, as remarked in my former letter, favor the reduction of the principal fund of the tribe as proposed by Senate bill 224, it appears proper that measures should be taken for the payment to the Wisconsin Indians of the $47,249.17 now in the Treasury belonging to them, with the sum heretofore proposed in equalization.

The department should also be authorized by law to withhold from the Nebraska Winnebagoes a certain proportion of their annuity moneys each year and pay the same to the Winnebagoes of Wisconsin, until the latter shall have been refunded the amount due them under the act of 1864.

As the Nebraska Indians have had nearly a million dollars expended for their benefit in the last fourteen years, I think this course may be pursued without serious detriment to them. It will, at the same time, in addition to the yearly proportion due the Wisconsin band from the annuity fund, for the payment of which legislation is also recommended, afford the latter the necessary funds for their successful location as contemplated in the bill.

Substantial justice to both bands will thus be secured, and at the same time the permanent investment of the tribe will be preserved intact.

A large proportion of the Winnebagoes of Wisconsin must be represented by those who have taken homesteads, and their settlement under the provisions of the act is in legal effect a division of the tribe, necessitating a census of the same for the purpose of effecting a proper division of their annuities in the future between the two bands.

It appears from the petition of the Indians, filed by Senator Cameron, that the Indians desire the funds requested for the purpose of paying entry fees for their lands, purchasing agricultural implements, stores, &c., and to establish schools for the education of their children; and they ask to be allowed to transact their own business without the intervention of an agent.

In my judgment the business which they have to transact, the purchases to be made, the homesteads to be selected, and the establishment of schools, could be more wisely accomplished under the direction of an agent than otherwise; and I am also of the opinion that the title to the lands acquired by them under the act of 1875 should be inalienable for the period of at least twenty years from completion of title, and that they should not be subject to taxation by the State or otherwise, and that the lands should not be subject to sale under judgment rendered in any court.

For the purpose of meeting the various requirements in this matter, I have the honor to submit the accompanying draft of a bill, with the recommendation that it be adopted in lieu of the resolution and bill under consideration. I also inclose copies of the resolution and bill under consideration, with a copy of the letter of Hon. Angus Cameron, with its inclosures.

I have the honor to be, sir, very respectfully, your obedient servant,

WM. M. LEEDS,
Acting Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 11, 1880.—Ordered to be printed.

r. PRYOR, from the Committee on Claims, submitted the following

REPORT:

Committee on Claims, to whom was referred the memorial of John Beeson, ·aying compensation for services rendered citizens of the United States protecting them from Indian hostilities, &c., have considered the same, ıd report:

he petition does not allege any state of facts which creates a claim inst the United States. He claims to have saved many lives and h money in "protesting against the lawless practices of cheating and ng the aboriginal occupants of the country." It seems to us that it ld be contrary to public policy to pay money from the Treasury such protests, without a previous contract. We therefore recom- d that the petition be disallowed, and the petitioner have leave to ıdraw.

C

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 255.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 11, 1880.—Ordered to be printed.

Ir. HOAR, from the Committee on Claims, submitted the following

REPORT:

e Committee on Claims, to whom was referred the petition of W. W. Busby and Eva V. Busby, having had the same under consideration, make the following report:

The pétition recites that, during the late war, one Mrs. Michie Blackan, the mother of Eva V. Busby, one of the petitioners, was a resident tizen of the county of De Soto, in the State of Mississippi, where and hen she, the said Blackman, was in the possession and the owner of rtain horses, mules, and cattle of great value, to wit, of the value of ,700; that during said late war, and whilst she so owned and possed said horses, mules, and cattle, the Federal troops, under the mmand of General Ed. Hatch, took from the said Michie Blackman e said horses, mules, and cattle, of the value as aforesaid, for the use the United States Army; that no compensation was ever received by e said petitioners from the United States Government, or from any urce whatever, for any of said property taken and used, or for the use aforesaid.

The petitioners further state that the said Michie Blackman died out the day of November, 1864, leaving your petitioner, Eva V. sby, her only heir; that the estate of the said Michie Blackman has en duly administered and all debts paid, and that no one has any erest in any claim against the government on account of the taking d use of the property aforesaid except your petitioner, Eva V. Busby, d whatever interest her husband, W. W. Busby, as such, may have.

The petitioners further state that the claim they now make was never d before the Southern Claims Commission within the time allowed, rch 3, 1871, to March 3, 1873, for the filing of claims before that bunal, because they did not know of the existence of such a tribunal til the time for filing had expired. The petition is not sworn to, nor there any proof of loyalty, or excuse or reason for not making appli- tion to the commission or Court of Claims within the time prescribed the law, except ignorance of the law, without anything appearing in petition or evidence to distinguish it from the innumerable cases in e situation, which was, in the opinion of the committee, the purpose the statute to exclude.

The petition does not conform to sections 1072, 1073, and 1074 of the vised Statutes, chapter 21. Allowing that the petitioner, Eva V. sby, is the sole heir, no debts, liabilities, or charges against and *na administratio* as to the estate of Michie, save this claim, yet the im they assert, to make it recoverable or allowable, should have been

such a claim against the government as Michie Blackman would be entitled to if living, and if the law intercepts or denies the claim to her if living, equally so to the heir, or those claiming by, from, and through her. This presents a case in which the parent ate *sour grapes*, which put the child's tooth on edge, as provided in sections 1072, 1073, and 1074 of the Revised Statutes, chapter 21.

The facts appearing upon the face of the petition, and the petitioners are to be taken as admitting the same, present a case condemned by the law, operating as a legislative forfeiture and confiscation of the property of those occupying certain localities during the rebellion, and based upon a supposition of disloyalty, with a status of repose as to claims of loyal claimants not presented within the time prescribed in section 1069, Revised Statutes, chapter 21, or falling within the provisions thereof, which is not claimed in this case. These things being true, it is unnecessary to consider the evidence in the case.

The committee therefore report adversely to, and that this claim be not allowed or paid, and that they be discharged from further consideration of the petition, and the same be indefinitely postponed.

O

H CONGRESS, 2d Session. } SENATE. { REPORT No. 256.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1880.—Ordered to be printed.

. HILL, of Colorado, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany bill S. 769.]

e Committee on Public Lands, to whom was referred the bill (S. 769) to nable the State of Colorado to take lands in lieu of sixteenth and thirty-ixth sections found to be mineral lands, report as follows:

y the seventh section of the act approved March 3, 1875, "to enable people of Colorado to form a constitution and State government, l for the admission of the said State into the Union on an equal foot- with the original States" (vol. 18, p. 474), there was granted to the l State "sections sixteen and thirty-six in every township, and where h sections have been sold or otherwise disposed of by any act of Con- ss, other lands equivalent thereto, in equal subdivisions of not more n one-quarter section, and as contiguous as may be, * * * for support of common schools."

y succeeding sections of the act other grants of land were made to State for various purposes; and by the fifteenth section it was pro- ed that "all mineral lands shall be excepted from the operation and nts of this act."

t was undoubtedly the intention of Congress to extend to the State Colorado the benefactions of "its ancient and honored policy" of de- ing an amount of public land equal to two entire sections in each nship to the support of common schools. But in the administration he law it is held by the executive department that the sections six- n and thirty-six of mineral land are absolutely withheld from the nt, and that the State is not entitled to indemnity therefor. Under s construction the grant to the State will be very materially impaired, l her common schools deprived of a considerable part of the fund in- ded for their support. It seems but just, therefore, to permit the te to select from non-mineral lands an amount equivalent to such ions sixteen and thirty-six, or parts thereof, as are withheld from on account of their mineral character. To confine such selections to icultural lands only, your committee recommend an amendment of original bill by adding thereto the following proviso, as suggested the Secretary of the Interior, in his letter of January 29, 1880, which ompanies this report:

ovided, That such selections shall be made from lands returned as agricultural, upon which, at the date of selection, no valuable mineral discoveries have been e.

uestions have arisen as to the title of the State to the sixteenth and ty-sixth *sections returned* by the United States survey as agricul-

tural land, but subsequently ascertained to be mineral land. It has never been authoritatively decided whether such discovery of mineral land upon a school section after survey does or does not defeat the title of the State; and the Secretary of the Interior suggests in his letter accompanying this report that a rule should be fixed by which the State may be governed in the disposal of her lands, and his department in dealing with applications for patents of mineral lands. He has submitted an amendment to the pending bill to reach that result.

The State takes and holds her title to the sixteenth and thirty-sixth sections by the force and effect of the grant, no patent or other evidence of title being issued to her. And it is decided that her title to the particular section attaches and becomes vested by the government survey of the township, the act which creates and identifies the sections. (Sherman *vs.* Buick, 3 Otto, p. 209; Water and Mining Company *vs.* Bugby, 6 Otto, p. 165.)

It follows, therefore, that where a section sixteen or thirty-six, or any part thereof, is returned by the survey as non-mineral land, no valuable minerals having been discovered thereon prior to the survey, the title of the State should become vested and perfect from the date of the survey, and ought not to be defeated by any subsequent discovery of mineral. Otherwise, the title of the State to her school sections would be burdened with an incurable infirmity, for there would always be the possibility of its being defeated by a chance discovery of valuable minerals in the land. It would be a defect in the title for the relief of which no statute of limitations could operate.

This, however, would not exactly apply in cases of townships surveyed by the government before the admission of the State; for no title could become perfect before there was a proper grantee to take. The title to the school sections previously surveyed, therefore, should vest in the State immediately on her admission, unless before such admission the land had been discovered to contain valuable minerals; and the title having passed to the State, ought not to be defeated by any subsequent developments.

We therefore recommend the further amendment of the bill by adding thereto the following, being in substance the amendment suggested by the Secretary of the Interior:

And provided further, That the right of the State shall be construed and held to be complete in all sections sixteen and thirty-six in townships surveyed prior to the admission of the State into the Union, on the date of such admission, unless at that time valuable mineral discoveries had been made thereon, or the same were returned by the deputy surveyor as mineral lands; and to all sections sixteen and thirty-six in townships surveyed after such admission, on the date of the approval of the plat of the survey thereof by the surveyor-general, unless valuable mineral discoveries at that time had been made thereon.

SEC. 2. That it shall be duty of the deputy surveyor at the time of executing the survey of any township to make a critical examination of the character of sections sixteen and thirty-six, and to embrace in his field-notes a full report of any and all mineral discoveries found to the surveyor-general, who, at the time of approving such survey, shall decide whether the whole or any part of either of said sections is mineral in character.

Your committee recommend the passage of the bill as thus amended.

DEPARTMENT OF THE INTERIOR,
Washington, January 29, 1880.

Hon. JOSEPH E. MCDONALD,
Chairman of the Committee on Public Lands of the United States Senate:

SIR: I have the honor to acknowledge the receipt, by direction of your committee, of Senate bill No. 769, entitled "A bill to enable the State of Colorado to take lands

lieu of sixteenth and thirty-sixth sections, found to be mineral lands," and request-
my views "in regard to this bill becoming a law."

ly the 7th section of the act providing for the admission of Colorado into the Union
a State, the sixteenth and thirty-sixth sections of every township were granted to
l State for the support of common schools; and where those sections had been sold
otherwise disposed of, other lands equivalent thereto were granted in lieu of the
tions so sold or disposed of.

ly the 15th section of said act, all mineral lands were excepted out of the operation
l grants of the act. (18 Stats., 474.)

Under the decisions of this department in the construction of similar grants it would
held that the State was not entitled to indemnity for sections sixteen and thirty-
if found to be mineral, because such sections were not granted.

t seems to have been the intention of Congress, in passing said act, to give to the
ate every sixteenth and thirty-sixth section of public lands, but the language used,
construed by the department, would not accomplish that object. I am of the opin-
, therefore, if the State is to have indemnity for any sections or parts of sections
ich may be found to be mineral lands, that legislation of this kind is necessary.

n returning said bill I have the honor to suggest that certain amendments be made
reto, in order to facilitate the adjustment of the grant to the State. I herewith
nsmit a draft of the amendments which I deem necessary, for the consideration of
ur committee.

By the act above mentioned a grant of two sections in each township was made, but
uch sections happen to be mineral lands, they are for that reason excepted out of
grant.

The courts have thus far not announced any rule fully covering the difficulties
nd in the construction of this grant, and as the question of whether a particular
tion is mineral or non-mineral in character is one which may not be determined for
ny years after the tract is surveyed, and perhaps sold, by the State, I think that
ngress should fix a rule by which the State might be governed in the disposal of her
ds, and this department in the allowance or disallowance of applications for patents of
neral lands. It is important that some time should be fixed when the right of the State
such sections may be considered complete; or if not of the character of lands intended
be granted, that she is entitled to other lands in lieu thereof. The amendments
rewith transmitted, I think, would accomplish that purpose, and I have the honor,
erefore, to request your consideration of the same in connection with said bill.

Very respectfully,

C. SCHURZ,
Secretary.

O

ɔONGRESS, } SENATE. { REPORT
Session. } { No. 257.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1880.—Ordered to be printed.

ɹMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 549.]

mmittee on Claims, to whom was referred the bill (S. 549) for the f of Samuel I. Gustin, have had the same under consideration, and ıit the following report:

is a bill to pay Samuel I. Gustin for a quantity of wood used by l States troops near Macon, Ga., in the year 1865.

ɜral J. H. Wilson entered Macon, Ga., on or about the 21st day il, 1865, and on the 22d day of April, 1865, issued Special Field ı No. 22, as follows:

[Special Field Orders No. 22.]

HEADQUARTERS CAVALRY CORPS,
Macon, Ga., April 22, 1865.

ereby announced to the cavalry corps of the military division of the Mississippi armistice had been agreed upon between Lieut. Gen. J. E. Johnston and Maj. T. Sherman, with a view to a final peace. The troops of the cavalry corps red to refrain from further acts of hostility and depredations. Supplies of all e to be contracted for, and foraging upon the country will be discontinued. fficers of the cavalry corps will enforce the strictest discipline in their com- Guards will be established, private and public property respected, and every- ɔne to secure good order.

ɜevet major-general commanding again takes just pleasure in commending the and men of the corps for their gallantry, steadiness, and endurance in battle, ing the arduous marches to this place. He enjoins them to remember that the n whose midst they are now stationed are their countrymen, and should be with magnanimity and forbearance, in hopes that, although the war which has ed has been long and bloody, it may secure a lasting and happy peace to our country.

nmand of Brevet Major-General Wilson.

E. B. BEAUMONT,
Major and A. A. G.

he time Samuel I. Gustin had on his farm near Macon one hun- ords of wood. He also had a large amount of rails and other suitable for fuel. Between the 24th day of April and the 27th July, 1865, it was used mostly by the troops for fuel.

ut the same time, and after April 22, 1865, a building belonging Gustin was burned.

the 27th day of July, 1865, Special Orders No. 3, Headquarters t of Columbus, were issued, appointing Lieut. Col. J. H. Tompkins, Kentucky Mounted Infantry, and Capt. John A. Roberts and George A. Patton, of the same regiment, a board to assess dam- This board called before it witnesses, both civil and military, and d the amount due to Samuel I. Gustin as $2,529, which included

$1,129 for the wood, rails, and other fuel used or destroyed by the United States troops, and $1,400 as the value of the said building destroyed. This report was made after not only taking testimony but personal examination by the board, and was approved by Brig. Gen. John T. Croxton, in command. On account of lack of funds it was not paid by the quartermaster, and never has been paid. The board, in calculating the amount of $1,129, reduced all the fuel to cords, and calculated the amount due at the price at which the Army was purchasing similar fuel at the time under contracts.

The papers in this case were in 1867 sent to an attorney in Washington and lost, and have only within a short time been recovered.

Proceedings of a board of survey held at Macon, Ga., in obedience to the inclosed order.

[Special Orders No. 3.—Extract.]

HEADQUARTERS DISTRICT OF COLUMBUS,
Macon,

* * * * * * *

II. A board of survey is hereby convened to examine into and assess damages sustained by citizens of this vicinity at the hands of United States troops. In each case the board will examine the premises carefully, take the testimony of witnesses, and report the nature of the damage fully; when possible, the troops committing the same, and whether the same was occasioned by the neglect or carelessness of the officers or was unavoidable.

The board will be composed of the following officers, viz:

Lieut. Col. J. H. Tompkins, Fourth Kentucky Mounted Infantry.

Capt. John A. Roberts, Fourth Kentucky Mounted Infantry.

Lieut. George H. Patten, Fourth Kentucky Mounted Infantry.

The board will convene at these headquarters at 9 a. m. this morning.

By command of Brigadier-General Croxton.

W. A. SUTHERLAND,
Captain and A. A. G.

The board met pursuant to the above order. Present: Lieut. Col. J. H. Tompkins, Fourth Kentucky Mounted Infantry; Capt. John A. Roberts, Fourth Kentucky Mounted Infantry; Lieut. George H. Patten, Fourth Kentucky Mounted Infantry.

Samuel I. Gustin (citizen), being duly sworn, testifies that he has lost (or was destroyed) by United States troops the following property: 600 feet of fencing lumber; 3,000 rails; 100 cords of wood; also, one frame building, with the machinery used for the manufacture of enameled cloth.

Julius Peters (citizen), being duly sworn, testifies that the Fourth United States Cavalry made a road through Mr. Gustin's lands and destroyed a large quantity of rail-fencing from 10 to 12 rails high.

William Steinmetz, sergeant Company G, Fourth United States Cavalry, being duly sworn, testifies that since on or about the 24th day of April, 1865, the United States troops had been hauling wood from the lands of Mr. Gustin; has seen from four to six wagons hauling three or four days every week for two months; he is satisfied that over fifty cords of wood have been taken.

Francis M. Seay (citizen), being duly sworn, testifies that on or about the 21st day of April, 1865, the enameled-cloth factory owned by Samuel I. Gustin, and valued at from $2,500 to $3,000, was burned by United States troops.

Mrs. Francis M. Seay, being duly sworn, testifies that the enameled-cloth factory owned by Samuel I. Gustin was burned by Federal soldiers the day after General Wilson's command entered Macon.

The board then proceeded to examine the premises, and, after carefully investigating the evidence, find that Samuel I. Gustin has been damaged by United States troops to the amount of $2,529, and that said damage was unavoidable, except the factory; and no evidence can be had as to what command the soldiers belonged to that destroyed it.

J. H. TOMPKINS,
Lieutenant-Colonel Fourth Kentucky Mounted Infantry.
JOHN A. ROBERTS,
Captain Company D, Fourth Kentucky Mounted Infantry.
GEORGE H. PATTEN,
First Lieutenant Company D, Fourth Kentucky Mounted Infantry.

Approved.

JNO. T. CROXTON,
Brigadier-General Volunteers.

It does not appear that the enameled-cloth factory owned by Mr. ıstin, and for which he asks compensation, was destroyed pursuant to e order of any competent military authority, nor that its destruction ıs necessary to facilitate military operations. It does not certainly ıpear that it was destroyed by soldiers. It is probable that its de-:uction was the wanton and unauthorized act of soldiers. The board survey was not able to ascertain by what troops it was burned.

We cannot recommend any payment to be made for the destruction said factory.

Ought compensation to be made for the wood, lumber, and rails used destroyed by the United States troops?

On the 22d of April, 1865, General Wilson issued the order, already ıoted, in which he directed that "supplies of all kinds are to be con-acted for, and foraging upon the country will be discontinued."

On the 24th of April, 1865, the United States troops began hauling ood from the lands of Mr. Gustin; and they continued to haul wood ıerefrom, with from four to six teams, three or four days every week r about two months.

It does not appear that all the lumber, rails, and wood for which Mr. ustin claims were *used* by the troops for fuel or for any other purpose.

One witness testified that the "Fourth United States Cavalry made a ıad through Mr. Gustin's lands, and destroyed a large quantity of rail-ıncing, from ten to twelve rails high."

It does not appear that any of the property was taken or destroyed ursuant to the order of any military officer.

The finding of the board of review was "that Samuel I. Gustin had een damaged by United States troops to the amount of $2,529, and ıat said damage was unavoidable, except the factory, and no evidence ın be had as to what command the soldiers belonged to that destroyed ıe factory."

The items going to make up the aggregate of damages, $2,529, were r the factory $1,400, for rails, lumber, and wood, all reduced to cord-ood, $1,129.

It is a pretty close question as to whether compensation should be ıade for the wood. We certainly would not recommend it had it been ken prior to the date of the order of April 22, 1865, but as it was taken ter the promulgation of that order, and nearly all was actually used by ıe Army, we have concluded to recommend its payment.

We therefore report back the bill and recommend its passage.

O

ITH CONGRESS, 2d Session. } SENATE. { REPORT No. 258.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1880.—Ordered to be printed.

r. DAVIS, of Illinois, from the Committee on the Judiciary, submitted the following

REPORT:

he Committee on the Judiciary, to whom was referred the resolution of the House of Representatives for the appointment of a joint committee to investigate the present system of salaries, fees, and emoluments allowed officers of the United States courts, and to ascertain whether these officers have been guilty of abuses, with power to send for persons and papers, employ a clerk and the services of a stenographer, beg leave to present the following report:

The resolution provides for the appointment of a committee, consist- of three Senators and five Representatives, "to investigate the esent system of compensating the officers therein mentioned, and to ertain what abuses now exist, or have existed, or may take place reunder," and to report by bill or otherwise.

The district attorneys (with one exception), the clerks, and marshals the courts of the United States derive their compensation chiefly om the fees and emoluments which are taxed for the specific services hich they are required to render.

The sixteenth chapter of Title 13 of the Revised Statutes prescribes ese fees; imposes the maximum which the officers are allowed to retain r their personal compensation for each calendar year, or any less time; quires that their accounts shall be examined and certified by the dis- ict judge of the district, and then audited by the proper accounting ficers of the Treasury, who are required to subject them to a revision pon their merits. The surplus beyond the maximum and the neces- ry expenses of their respective offices is to be paid into the Treasury the United States.

The system of paying the officers of the courts by fees has prevailed nce the establishment of the government. The first limitation upon e amount which they were authorized to retain from their receipts as, it is believed, imposed by the appropriation act of March 3, 1841 Statutes at Large, 421). Whether that system shall be continued, another adopted by which the officers shall receive a fixed sum rectly from the Treasury; whether the statute prescribing fees im- ses undue burdens by allowing in any instance an exorbitant charge r a particular service, are matters which the appropriate committee either house of Congress, if therewith charged, can consider as well a special joint committee, and with much less expense.

The resolution requires the joint committee to ascertain whether, der the present system, "abuses now exist, or have existed, or may

take place." In this connection, it is proper to remark that the courts are invested with a supervisory authority over the officers in question, and with the unrestricted power to appoint and remove the clerks. There is no just reason to suppose that the authority would not be promptly and effectually exercised at the instance of an aggrieved party, and adequate relief afforded. The officer, if guilty of extortion under color of his office, is also subject to indictment; and if he applies to his own use money belonging to the registry, or paid into court, he is guilty of the crime of embezzlement. It would seem that the contemplated inquiry ought to be confined to the particular office where abuses are charged to exist, which we are advised is in the southern district of Ohio. To go beyond this, and extend the inquiry to every office, without specific allegation of misconduct, would not only involve an uncalled-for outlay of public money, but imply that the federal courts, as a general thing, are unwilling to investigate and correct abuses. There is nothing in the past history of the federal judiciary to warrant such an accusation, and it would be wrong to impute to the judges a purpose to protect these officers against charges of malfeasance.

We therefore recommend that the Senate do not concur in the resolution of the House of Representatives for the appointment of the joint committee.

-O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 259.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 16, 1880.—Ordered to be printed.

Mr. FARLEY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 637.]

The Committee on Pensions, to whom was referred the bill (S. 637) entitled "A bill granting an increase of pension to Lucien Kilbourne," beg leave to report:

That this pensioner is now drawing eighteen dollars per month for a gunshot wound received while serving in Company C, Eighth Regiment of Michigan Infantry Volunteers. The wound was received at the battle of Spottsylvania Court-House, Va., May 12, 1864, the ball shattering the bone of the right arm between the elbow and shoulder, necessitating the removal of from three to six inches of the bone between those points. The pension surgeon's certificates show that the arm is entirely helpless; that it swings like a pendulum from the shoulder; that the arm cannot be raised or used in any manner. The bill provides that the pensioner shall hereafter receive twenty-four dollars per month, which is the amount he would have received had the arm been amputated.

Your committee recommend the passage of the accompanying bill.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 260.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 16, 1880.—Ordered to be printed.

Mr. THURMAN, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill S. 280.]

The Committee on the Judiciary, to whom was referred the bill (S. 280) for the relief of Ann Gregory, widow of Charles N. Gregory, deceased, report:

That the rule of *caveat emptor* applies to sales of the character mentioned in the preamble to said bill, and that the committee find nothing in the circumstances of this case that should except it from the operation of that rule. They therefore recommend that the bill be indefinitely postponed.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 261.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 16, 1880.—Ordered to be printed.

Mr. FARLEY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 899.]

The Committee on Pensions, to whom was referred the pension claim of William O. Morgan, sergeant Company K, Thirty-seventh Illinois Volunteers, report:

This claim was presented to the Pension Bureau some ten years after claimant's discharge from service. Claimant re-enlisted in 1864, nearly two years after both of the alleged diseases were contracted.

Your committee concur in the report of the Commissioner of Pensions, that the evidence does not connect the diseases with the service, and recommend that the bill do not pass.

C

'H CONGRESS, 2d Session. } SENATE. { REPORT No. 262.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 16, 1880.—Ordered to be printed.

PLATT, from the Committee on Patents, submitted the following

REPORT:

[To accompany bill H. R. 2518.]

: Committee on Patents, to whom was referred an act for the relief of Nelson Lyon and Jeremiah S. James (the same being the bill H. R. 2518), aving had the same under consideration, respectfully report:

The object of this bill is to correct a patent, and the facts upon ich the correction is asked are as follows:

In 1871, Joseph Barsaloux invented a new and useful device called a etallic stiffener for boot and shoe heels, and, before applying for a pat- t, assigned an undivided two-thirds of his invention to Nelson Lyon d Jeremiah S. James, and thereupon, said Barsaloux, Lyon, and mes made a joint application for a patent. In such application they ere all described as joint inventors, when, in fact, Barsaloux should ve been described as the sole inventor, and Lyon and James as signees.

Upon such application the patent was issued to Barsaloux, Lyon, and nes, dated July 9, 1872, No. 128,843. At the date of issue Lyon and nes had become the entire owners of the invention by virtue of an ignment from Barsaloux of his remaining interest, made during the ndency of the application.

t is evident upon the proof in the case that the error in making the plication for the patent resulted from the mistaken belief of the as- nees that inasmuch as their interest had been obtained before the ent was applied for, it was proper and necessary for them to be de- ibed as joint inventors with said Barsaloux. The papers in the case re prepared by an attorney whose experience in such matters was ited.

t seems just and proper that the patent should be corrected and de valid for its unexpired term.

The committee, out of abundant caution, would recommend the follow- amendment: At the end of the bill add, "*Provided*, That nothing rein contained shall operate to invalidate the rights of any persons to om assignments may have been made, or licenses granted under said ters patent; but such assignments and licenses shall be as valid un- said corrected letters patnt as they would have been had said ters patent as originally granted been operative and valid," and that bill thus amended be passed

O

CONGRESS, 2d Session. } SENATE. { REP No.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 16, 1880.—Ordered to be printed.

:. SLATER, from the Committee on Patents, submitted the following

REPORT:

[To accompany bill S. 981.]

e Committee on Patents, to whom was referred the petition of Herman Miller, praying for the extension of his patents for metal can and for process and apparatus for soldering cans, have considered the same, and respectfully report:

Senate bill 981 is based upon the petition of Herman Miller, praying ngress for an extension of patent No. 38974, dated June 23, 1863, re- ued May 15, 1877, No. 7682, for metal cans, and patent No. 39616 ed August 18, 1863, for process and apparatus for soldering cans.

The relief proposed in the bill is based upon the want of means and inability of the patentee to manufacture and introduce his new in- tions, and consequent disadvantageous terms at which he was com- ed to dispose of his rights and the non-realization of adequate profits, are stated by petitioner as follows:

t, after the obtaining of the letters patent upon the can, total want of means and ity himself to manufacture and introduce his invention compelled your peti- to enter into the most disadvantageous arrangements, whereby he was compelled ose of his rights under said letters patent for can, and also under his invention ering machines, in order to obtain the necessaries of life.

your petitioner further represents that, to the best of his knowledge, informa- d belief, his receipts and expenses from and on account of his said inventions en as follows:

nsumed in experimenting, at $3.50 per day	$500 00
nodel to file in application for letters patent	75 00
rocuring letters patent	174 00
xpended in procuring the purchase of said inventions	1,250 00
al expenses	1,999 00
rom said inventions for original terms of said patents Nos. 38974 6	5,000 00
alized from said two inventions	3,001 00

ition is verified by the oath of the petitioner, and there is no lence to support his claims in respect to his poverty or the lized from his invention; and we think that the general state- made, though verified, are far too general and indefinite to case within the rules the committee have laid down for its such cases.

ral statement that the petitioner was in such want of me ble himself to manufacture and introduce his invention

thereby was compelled to dispose of his rights under his patent upon disadvantageous terms, without any statement or showing as to what the terms were, leaves the committee and Congress without any means of judging whether the terms were hard in themselves, or whether they were imposed on the one hand or submitted to on the other because the petitioner was poor; and the mere statement that the net profits of the patentee were only $3,001 is far from being a satisfactory showing that they are inadequate, especially when it is also stated that all expenses of the patentee of every character have only been $1,999 for all purposes.

Upon these considerations we, therefore, recommend that the prayer of the petitioner be denied, report back the bill adversely, and recommend that it be indefinitely postponed.

O

6TH CONGRESS, 2d Session. } SENATE. { REPORT No. 264.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 16, 1880.—Ordered to be printed.

[r. PLATT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 848.]

he Committee on Pensions, to whom was referred the bill (S. 848) granting a pension to Frederick R. Bruner, respectfully report:

The claimant was a private in Company H, Nineteenth United States ıfantry, and was wounded in the battle of Chickamauga, receiving a ınshot wound in the left breast, the ball remaining in his body, and ever having been extracted. He is suffering from disease of the left ıng, debilitated, and unable to work a considerable part of the time. e made application to the Bureau of Pensions March 7, 1870, which as rejected January 16, 1871, upon the ground that his disability was ot traceable to the gunshot wound. The testimony upon which the aimant relies is that of two physicians in Detroit, who state that in eir opinion his disability is the result of the wound.

He was examined by a board of examining surgeons at Detroit Noember 2, 1870, who reported no disability. Upon this report his applition was rejected. His case was subsequently reopened, and another xamination ordered and had. Upon this examination the board—one ember absent—reported that they were unable to trace his disease to e wound received. The claimant asked for another examination before full board; it was granted, and the board reported May 3, 1876, that ey were "not able to trace this condition of the lung to the alleged ınshot wound, but are of opinion that it has been acquired since." pon this report the claim was again rejected. The subsequent evidence f his attending physicians throw no new light upon the subject.

In view of the fact that his medical examinations seem to have been ll and careful, and that the examining surgeons are so clearly of the pinion that the condition of his lung is not attributable to the gunshot ound, the committee see no ground upon which to reverse the action the Commissioner, and therefore recommend that the bill do not pass.

O

ɔTH CONGRESS, 2d Session. | SENATE. | REPORT No. 265.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 16, 1880.—Ordered to be printed.

.r. PLATT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 985.]

he Committee on Pensions, to whom was referred the bill (S. 985) granting a pension to Mrs. Mary Leggett, having had the same under consideration, respectfully report:

That a similar bill was before the Forty-fifth Congress, upon which the enate Committee on Pensions reported favorably and the bill was passed ı the Senate late in the session, but was not acted on in the House for ant of time.

The report referred to was as follows:

.r. KELLOGG, from the Committee on Pensions, submitted the following report (to accompany bill S. 460):

he Committee on Pensions, to whom was referred the petition of Mary Leggett, widow of Robert Leggett, report as follows:

Robert Leggett entered the service of the United States, in the Tenth Connecticut nfantry Volunteers, October 1, 1861, and was promoted to lieutenant-colonel of said egiment November 20, 1862. While in the line of duty he lost a leg by a cannon-ball ı the trenches before Fort Wagner, July 25, 1863. He resigned the service in conequence of his injuries August 17, 1864, and was allowed a pension, which he conıued to draw up to the time of his death, September 18, 1874. His widow, the petioner, applied to the Pension Office for a pension in September, 1876, but it was refused er in the following year, on account of alleged insufficiency of testimony on the subect of the origin of the cause of the soldier's death.

From the testimony now before your committee, they find that the soldier never ecovered from the shock of his severe wound and exposure in the field, and that he ied from causes directly resulting from the same.

Though the testimony does not technically conform to the rules of the Pension Office, nd, owing to the lapse of time, it is believed to be impossible to procure testimony afficient to conform to said rules, which are necessarily strict in order to prevent aud and imposition, yet this case is so meritorious, and so well sustained by a large mount of medical and other testimony, that your committee report favorably, and ecommend the passage of the accompanying bill.

The committee adopt the foregoing report and recommend the passage f the bill.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 266.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 16, 1880.—Ordered to be printed.

Mr. CALL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1072.]

The Committee on Pensions, to whom was referred the bill (S. 1072) granting a pension to Arthur W. Irving, respectfully report as follows:

That this case was before the Forty-fifth Congress, and that the Committee on Invalid Pensions of the House of Representatives of that body submitted the following report:

The Committee on Invalid Pensions, to whom was referred the petition of Arthur W. Irving, asking for pension as bugler in Company C, One hundred and fourth Regiment of New York Volunteers, have had the same under consideration, and ask leave to submit the following report:

It appears from the evidence on file that the soldier was passed into the service after two rigid examinations, and was then sound in every respect, and free from rheumatism especially. That he was attacked with typhoid fever and sent to hospital, and that it resulted in rheumatism, which has continued to grow gradually worse, until it has become chronic, and produced a permanent stiffening and curvature of the spine, and is now wholly disabled from earning his living by manual labor. The evidence is conclusive that the soldier was sound when he entered the service, that he contracted his disease in the service of the United States and in the line of his duty, and that his disease has become chronic. The committee therefore report back said petition with the accompanying bill, and recommend its passage.

Your committee, after a careful examination of the testimony presented, would concur in the above report and recommend the passage of the bill.

40TH CONGRESS, 2d Session.

SENATE.

REPORT No. 266.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1869.—Ordered to be printed.

Mr. CARL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1072.]

The Committee on Pensions, to whom was referred the bill (S. 1072) granting a pension to Adrian H. Irving, respectfully report as follows:

That this case was before the Forty-fifth Congress, and that the Committee on Invalid Pensions of the House of Representatives of that body submitted the following report:

The Committee on Invalid Pensions, to whom was referred the petition of Adrian H. Irving, asking for pension as bugler in Company C, one hundred and fourth Regiment of New York Volunteers, have had the same under consideration, and ask leave to submit the following report:

It appears from the evidence on file that the soldier was passed into the service after two rigid examinations, and was then sound in every respect, and free from rheumatism especially. That he was attacked with typhoid fever and sent to hospital, and that it resulted in rheumatism, which has continued to grow gradually worse, until it has become chronic, and produced a permanent stiffening and curvature of the spine, and is now wholly disabled from earning his living by manual labor. The evidence is conclusive that the soldier was sound when he entered the service, that he contracted his disease in the service of the United States and in the line of his duty, and that his disease has become chronic. The committee therefore report back said petition with the accompanying bill, and recommend its passage.

Your committee, after a careful examination of the testimony presented, would concur in the above report and recommend the passage of the bill.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 267.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 16, 1880.—Ordered to be printed.

Mr. CAL from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 235.]

The Committee on Pensions, to whom was referred the bill (S. 235) granting an increase of pension to Egbert Olcott, beg leave to submit the following report:

That Egbert Olcott was formerly colonel of the One hundred and twenty-first New York Volunteers, having enlisted as a private April 8, 1861, and mustered out as colonel of the One hundred and twenty-first New York Volunteers June 25, 1865. That during the service he was wounded by a gun-shot wound in the head, and subsequently became insane therefrom, and is now an inmate of the New York Insane Asylum, and is considered incurable.

That he now draws a pension of $50 per month, and that the Commissioner of Pensions rejected his claim for an increase on the ground that the general law does not provide for a payment of more than $50 per month for total disability arising from insanity.

Your committee therefore recommend the passage of the bill granting the increase prayed for.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 268.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 16, 1880.—Ordered to be printed.

Mr. FARLEY, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of George Nichols and others, asking that arrears of pensions be granted to Mrs. Fanny Newcomb, report:

It appears that Iremus P. Newcomb enlisted as a soldier in Company H, Sixth Regiment Vermont Volunteers, October 15, 1861, and died of disease contracted in the service April 9, 1862, and that Fanny Newcomb made application for a pension in 1867, on account of dependence upon her son Iremus for support; that although a mass of evidence was furnished, the claim was suspended at the department till 1874, for the reason that the evidence on file was insufficient to show the disability of the claimant's husband, or the dependence of the claimant upon the deceased soldier for a support. In 1874 a special act was passed allowing claimant a pension, subject to the limitations of the pension laws. At that time the evidence was quite conflicting as to the question of dependence for support, and there were other and older children than the son Iremus. No additional evidence has been filed since that date.

Your committee would recommend that the prayer of petitioners be denied, and the committee be discharged from further consideration of the petition.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 269.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 16, 1880.—Ordered to be printed.

Mr. PLATT, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of sundry citizens of Iowa, praying that a pension be granted Walter S. Handley, having had the same under consideration, respectfully report:

Walter S. Handley, late private Company H, First Iowa Cavalry, enlisted July 30, 1861, and was discharged after the close of the war, February 16, 1866. He applied for pension June 20, 1876, alleging deafness contracted in April, 1864, near Camden, Ark., in consequence of exposure, sleeping on the ground, &c. He was not treated in any hospital, and there is no record or medical evidence showing the existence of the alleged deafness in service or at the time of discharge. In the opinion of the medical examiner his deafness results from catarrh, and there is no sufficient evidence to connect it with his service.

In view of the evidence, and the fact that he did not apply for a pension until ten years after his discharge, the committee see no reason for reversing the decision of the Commissioner rejecting his application, and ask to be discharged from the further consideration of the petition.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 270.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 16, 1880.—Ordered to be printed.

Mr. PLATT, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of John Davison, praying for an increase of pension, having had the same under consideration, respectfully report:

The petitioner was a private in the Forty-Seventh Regiment of Illinois Volunteers, and was wounded May 23, 1863, at Vicksburg, in consequence of which he was discharged December 21, 1863.

A ball entered his left side, passed backward, and shattered the spinous processes of the three upper lumbar vertebræ. He suffers neuralgia, and is much debilitated in consequence of his wound, and is unable to perform hard manual labor.

His application for a pension was rejected for the reason that he is now receiving the full amount allowed by law for his disability, and the committee can see no reason why his case should be distinguished from numerous similar cases in which the pension allowed by law seems somewhat inadequate in view of the disability.

The committee therefore ask to be discharged from the further consideration of the petition.

O

ONGRESS, } SENATE. { REPORT
Session. } { No. 271.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1880.—Ordered to be printed.

UMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1075.]

mmittee on Military Affairs, to whom was referred the bill (S. to authorize Dr. Daniel M. Appel, of the United States Army, to e pay for discharging the duties of physician to the Mescalero Apache n Agency, New Mexico, have considered the same, and beg leave to it the following report:

is a bill to authorize Asst. Surg. Daniel M. Appel, of the United Army, to receive pay for services rendered as a physician at the ero Apache Indian Agency, New Mexico, from January 1, 1877, h 31, 1879, at the rate of $50 per month.

the evidence presented it appears:

at the services were rendered in good faith by Dr. Appel under ement with the agent at the Mescalero Apache Indian Agency.

at it was impracticable to obtain the services of any other phy- and that Dr. Appel was compelled to travel thirty-five or forty rom his regular station, Fort Stanton, New Mexico, through a ous country, at his own expense, in order to render this service.

at notwithstanding this arduous service, Dr. Appel at no time ed his duty as a medical officer of the Army, but made profes- visits to the Indian agency *only* at such times as would not inter- th his duties at Fort Stanton, and *always* with the *permission* and *l* of the commanding officer of that post.

ust and equitable right to payment for such services has already cognized and determined by Congress in similar claims of Asst. homas F. Azpell, United States Army, by act approved January 7, and Asst. Surg. J. A. Fitzgerald, United States Army, by act ed March 1, 1879.

Army Regulations, which are sanctioned by and have the effect prescribe the duties of medical officers of the Army as follows:

l officers, *where on duty*, will attend the officers and enlisted men and the and laundresses authorized by law, and at stations where other medical ice cannot be procured without great expense or inconvenience, and on the *hired men of the Army* and the families of *officers* and *soldiers*.

committee recommend that the claim of Dr. Appel be allowed, dition to *all* of the duties devolving upon him as a medical officer Army he responded to the calls made upon him for his professional s at the Indian agency, thirty-five or forty miles distant from his in the same manner as any private physician would have

responded, and as medical officers are frequently called upon when *serving at frontier posts in cases of emergency and in the interests of humanity.*

The location or residence of the nearest private physician to the Mescalero Agency was about 140 miles distant.

The services rendered by Dr. Appel, at great personal risk and at his own expense, and for which this moderate compensation is asked, would have cost the government at the lowest calculation twice the amount claimed if a physician had been appointed for service at the agency, and at the least calculation five times the amount had the nearest private physician been called.

For all these reasons it seems just that the bill should pass, and Dr. Appel be allowed to receive the pay agreed upon, notwithstanding the provisions of section 1765 of the Revised Statutes.

O

ONGRESS, } SENATE. { REPORT
Session. } { No. 272.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1880.—Ordered to be printed.

MILLAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 111.]

*mmittee on Claims, to whom was referred the bill (S. 111) for the re-
f the city of Macon, Ga., have had the same under consideration, and
ctfully report as follows:*

claim was presented in the House of Representatives of the Forty-
ongress, and the Committee on War Claims of that body, at its
session, reported (Report No. 1, second session Forty-fifth Con-
a bill for the relief of the claimant (H. R. 1888), which passed the
of Representatives, and in the Senate was referred to the Com-
on Claims. The bill was fully considered by the Committee on
, and was reported back to the Senate with the recommendation
e bill be indefinitely postponed (Report No. 144). The report was
upon the calendar and no further action was taken during the
ifth Congress. At the second session of the present Congress,
9th of December, 1879, a bill (S. 111) for the relief of the same
it, on account of the same subject-matter and upon the same
s, was introduced in the Senate and referred to the Committee on
e. On the 9th of December the Committee on Finance were dis-
d from its further consideration, and it was referred to the Com-
on Claims. The report of the Committee on Claims by the Sen-
om Wisconsin (Mr. Cameron), made at the last Congress (Report
ts forth the facts and discusses fully the merits of the claim, and,
arrived at the same conclusions, the committee adopt the report
nitted by Mr. Cameron, as follows:

ll is accompanied and supported by the sworn petition of W. A. Huff, mayor
n, and by other evidence.
lleged and set forth in this petition:
hat upon the 24th day of June, 1865, said city of Macon issued its bonds to the
of $25,000 (which amount was increased from time to time afterward), in de-
ions of 25 cents, 50 cents, $1, $5, $10, and $20, bearing interest at the rate of 2
. per annum.
at said bonds so issued were in the form or similitude of bank-bills, and were
the city of Macon in paying its various obligations, and were paid out by the
time to time from the month of June, 1865, to the month of May, 1873, and
l bonds were used as a local circulating medium.
hat from the month of January, 1867, to the month of May, 1873, both inclusive,
of Macon was assessed by the United States internal-revenue assessor for that
an internal-revenue tax of one-twelfth of 1 per cent. each month upon the
amount of these bonds thus used and paid out by the city of Macon.
hat this internal-revenue tax amounted to the sum of $6,141.07, and the same
ssed under section 9, act July 13, 1866 (14 Statutes at Large, page 184; Revised
, section 3408).

The city of Macon paid the tax so assessed regularly each month without protest or objection until the 1st of June, 1873, when it refused any longer to pay such tax. On the 29th of January, 1874, the city filed its claim before the Commissioner of Internal Revenue for the refunding of the tax so paid, to wit, the sum of $6,141.07. It appeared from the records in the office of the Commissioner of Internal Revenue that the sum actually paid by the city of Macon as such tax was $5,633.50.

The provision of the statute under which this tax was assessed reads as follows:

"There shall be assessed a tax of one twelfth of one per centum each month upon the average amount of circulation issued by any bank, association, corporation, company or person, including as circulation the certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including that in the vault of the bank, or redeemed, or on deposit for said bank; and an additional tax of one-sixth of one per centum each month upon the average amount of such circulation issued as aforesaid beyond the amount of 90 per centum of the capital of any such bank, association, corporation, company, or person."

This section of the statute was considered by Attorney-General Stansbery in a case that arose upon certain certificates issued by the State of Alabama. His opinion may be found on page 176 of volume 12 of Opinions of the Attorneys-General.

The Attorney-General holds in this opinion that the term "corporation," as used in this section of the statute, applies to a *private* and not to a *public* or *political* corporation. The Attorney-General uses this language:

"Now, if it was the purpose of Congress not only to include such corporations as are not private in their foundation, but to embrace other corporations usually called *public* corporations, certainly that purpose would have been expressed; and if it was intended to include a State, why not say a State, without any circumlocution; and if it was intended to include a city, why not name it? But here a State or a city is not named, nor is the usual term of description, to wit, a *public* corporation, used to embrace them."

The Attorney-General also holds in this opinion that the term "person," as used in this section of the statute, does not include a public corporation, although it may include a private corporation. He refers to what is now section 1 of the Revised Statutes, in which it is provided that "the word person may extend and be applied to partnerships and corporations," but holds that the corporations referred to in this section are private and not public or political corporations.

Under this construction given to the act by the Attorney-General the Secretary of the Treasury held that this tax was improperly assessed against the city of Macon: but he held further, that under section 3228 of the Revised Statutes, which provides that "All claims for the refunding of any internal tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, must be presented to the Commissioner of Internal Revenue within two years next after the cause of action accrued," he could refund only the taxes which had been collected within two years immediately preceding the time when the claim for the refunding of the tax was presented to the Commissioner of Internal Revenue. In other words, he held that section 3228 of the Revised Statutes constituted a statute of limitation. In harmony with this construction the Secretary of the Treasury refunded to the city of Macon the sum of $1,454.53, being the sum collected within two years next preceding 29th day of January, 1874, when the claim for refunding was first filed with the Commissioner of Internal Revenue, leaving the sum of $4,178.97 still in the Treasury of the United States.

As bearing upon this claim, your committee refer to section 3583 of the Revised Statutes, which reads as follows:

"No person shall make, issue, circulate, or pay out any note, check, memorandum, or token, or any obligation for a less sum than $1, intended to circulate as money or to be received or used in lieu of lawful money of the United States; and every person so offending shall be fined not more than $500, or imprisoned not more than six months, or both, at the discretion of the court."

The city of Macon issued bonds (so called) of a less denomination than one dollar, to wit, of the denominations of twenty-five cents and fifty cents, which were intended to circulate as money, and to be received and used in lieu of lawful money of the United States.

Now, if the term *person*, as used in this section, were held to include a public corporation like a city, as it doubtless does include a *private* corporation, then the city of Macon would be liable to a penalty of $500 for each of its so-called bonds of a less denomination than $1 issued by it. But the Attorney-General having decided that the word person as used in these statutes does not include a public corporation, and the Treasury Department having adopted this construction, your committee feel it their duty to acquiesce in this construction.

Your committee therefore hold that this tax was improperly and illegally assessed against the city of Macon. The only remaining question left for decision is whether

the bar of the statute of limitations as fixed by section 3228 of Revised Statutes shall be removed.

The only authority the city of Macon had for issuing these so-called bonds was an ordinance passed by the city council May 23, 1865, authorizing the mayor to issue the bonds of the city to the amount of $50,000, payable two years after date, bearing interest at the rate of 2 per cent. per annum.

There was no authority in the charter of the city nor in any statute of the State for the issue of these bonds; hence on the 11th of December, 1871, an act of the legislature was obtained whereby all bonds theretofore issued by the mayor and council of the city of Macon were legalized. Bonds were issued by the city subsequent to said act of December 11, 1871. There was no authority for their issue, nor has their issue since been legalized.

The city of Macon has had the benefit of this circulation, amounting to $50,000, since the month of May, 1865, and the whole amount of tax paid on such circulation, less amount refunded, is $4,178.97.

The object and purpose of the statutes to which we have referred, imposing a tax on circulation, doubtless were to enable the United States Government to furnish the paper circulating medium, and that such paper circulation should be either greenbacks or national-bank notes.

No person or private corporation can, after paying the Federal taxes thereon, profitably issue its own notes or bonds to be used as circulation, but it seems there is no law to prevent a public corporation from issuing its notes or bonds for circulation, to be used and taken in lieu of the lawful money of the United States to any amount.

The city of Macon has had the benefit of this circulation; it paid the tax levied thereon without protest or objection. If there were strong equities in favor of the claim now made by the city, we would feel like recommending the removal of the bar of the statute of limitations and the payment of the claim, but there are no such strong equities in favor of the city, and we therefore cannot recommend that the bar of the statute be removed and the claim paid.

We recommend that the further consideration of said bill be indefinitely postponed.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 273.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1880.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 613.]

The Committee on Military Affairs, to whom was referred the bill (S. 613) for the relief of Jacob D. Jones, late captain Fifth United States Infantry, respectfully submit the following report:

The committee, upon application to the Adjutant-General for such information as would aid the committee in its conclusion, received the following:

1st. Letter of Adjutant-General, dated January 10, 1880, marked A. 2d. Military history of Jacob D. Jones, January 9, 1880, marked B. 3d. Copy of a communication from headquarters Department of Missouri, September 23, 1870, marked C. 4th. Copy communication, headquarters Army of the United States, October 24, 1870, marked D.

And on behalf of the said Jones numerous letters, &c., as well as his affidavit setting out his view of the case. All of said papers are herewith returned.

A careful examination satisfies the committee that the relief asked cannot, in view of the papers furnished by the War Department, and not overcome by countervailing testimony, be properly granted. Wherefore the committee report back said bill, and recommend that it do not pass.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 273.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1880.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 613.]

The Committee on Military Affairs, to whom was referred the bill (S. 613) for the relief of Jacob D. Jones, late captain Fifth United States Infantry, respectfully submit the following report:

The committee, upon application to the Adjutant-General for such information as would aid the committee in its conclusion, received the following:

1st. Letter of Adjutant-General, dated January 10, 1880, marked A. 2d. Military history of Jacob D. Jones, January 9, 1880, marked B. 3d. Copy of a communication from headquarters Department of Missouri, September 23, 1870, marked C. 4th. Copy communication, headquarters Army of the United States, October 24, 1870, marked D.

And on behalf of the said Jones numerous letters, &c., as well as his affidavit setting out his view of the case. All of said papers are herewith returned.

A careful examination satisfies the committee that the relief asked cannot, in view of the papers furnished by the War Department, and not overcome by countervailing testimony, be properly granted. Wherefore the committee report back said bill, and recommend that it do not pass.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT. No. 274.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1880.—Ordered to be printed.

Mr. WALKER, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany bill H. R. 2326.]

he Committee on Public Lands, to whom was referred the bill (H. R. 2326) for the relief of settlers upon the Osage trust and diminished reserve lands in Kansas, and for other purposes, have had the same under consideration, and submit the following report:

These lands formerly belonged to the Osage Indians, and under treaty ipulations between the United States and that tribe the sale of the nds and the disposition of the funds arising from the proceeds of such le were mutually agreed upon. By joint resolution of April 10, 1869, e lands were opened to sale to actual settlers at one dollar and twenty-e cents an acre. By act of May 9, 1872, the general principles of the e-emption laws were applied to these lands, though they were to be ld only to cash purchasers, with certain conditions as to time of pay-ent, which were still farther modified by act of June 23, 1874, which ovided against any farther extension of time and prescribed that de-rred payments under previous laws should draw interest at the rate of per cent. per annum.

A very considerable proportion of the persons who have made settle-ents upon these lands have failed to comply with the terms as to pay-ent. They have been signally unfortunate. Many invested all the eans at their command to put their farms under partial cultivation and furnish the necessary improvements. Others effected loans for these urposes. Before they were able to realize from their investments the tire section of country within which these lands are included was vastated by the grasshopper scourge, which literally ate out their sub-ance. This, with subsequent losses from an unusually dry season and e pressure of indebtedness, has made it quite impossible for these ople, or the greater part of them, to meet their obligations to the vernment.

This bill provides for their relief by permitting payment for the lands be made in equal annual installments, with 5 per cent. interest on de-rred payments, and secures the government, as the representative of e Indians, against loss by default by subjecting the claims of settlers forfeiture and the lands to sale at public auction in case of failure to et any one of the payments. This, while a substantial relief to the ttlers, will prove just to the Indians, for it insures certain payment for e lands and the consequent enlargement of their fund, while by ex-ding the same principle of payment by installments to the lands un-

settled upon, their sale will be promoted to the mutual advantage of the State and of the Indian tribe.

No advantage would result to the government or to the Indians by enforcing forfeiture against the settlers, under existing law, while the hardships to the unfortunate settlers would be very great. They would be deprived of the benefit of all the improvements placed upon their lands. Nor would this and the forced abandonment of their homes be all; as their settlement was made under the limitations and requirements of the pre-emption law, they would be prohibited from filing upon any other class of public lands. The committee do not believe that anything would be gained by such severity, while, under the terms of the pending bill, the substantial purpose of the treaty and the original legislation will be carried out.

The bill also provides that the lands shall be taxable after the payment of the first installment, though it is expressly provided that no sale for taxes shall deprive the United States of any part of the purchase-price of the lands. This feature is deemed just to the State, which would otherwise be deprived of any revenue from a very large proportion of an extensive community for a series of years, while the local burdens would fall upon the comparatively few who have received titles to their lands.

This bill was introduced at the last session, and was drawn under the direction of the Commissioner of the General Land Office. It has also passed the House of Representatives. The committee believe that it will be a measure of humanity to the settlers and of substantial justice to the government and the Indians, and they therefore recommend its passage.

A letter of the Commissioner of the General Land Office, of date April 10, 1878, to the Secretary of the Interior, and by that official transmitted to the House of Representatives, is hereto attached.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 10, 1878.

SIR: I have the honor to report as follows upon House bill No. 3275, "for the relief of actual settlers upon the Osage Indian trust and diminished reserve lands in the State of Kansas, and for other purposes," referred by the department on the 7th ultimo with letter of Hon. Thomas Ryan dated the 4th ultimo.

The lands in question are those designated by the second and sixteenth articles of the treaty of September 20, 1865, volume xiv United States Statutes, and by those articles the stipulations respecting their sale and the disposition of the proceeds are expressed.

By joint resolution of April 10, 1869, the trust lands were opened to sale at $1.25 per acre to actual settlers, and the twelfth section of the act of July 15, 1870, authorized the continued disposal of both the trust and diminished reserve lands under the provisions therein prescribed, and by act of March 3, 1871, the town-site laws were extended over them. (See Statutes, vol. xvi, pp. 55, 362, and 557.)

By act of May 9, 1872 (Statutes, vol. xxii, p. 90), incorporated in section 2283 of the Revised Statutes, the lands have been brought under the general provisions of the pre-emption law, but only to be sold to cash purchasers, and upon prescribed limitations as to time of payment, which limitations were still further modified by act of June 23, 1874 (Statutes, vol. xviii, p. 283), so as to bar any further extension of time, and to require interest at the rate of 5 per centum per annum upon all deferred payments under the previous laws.

It is now proposed to relieve the settlers by allowing payment in equal installments under the terms of the bill, and to provide against default by subjecting the claims to forfeiture and the lands to unconditional sale at public auction after due notice and the lapse of the prescribed periods of time.

The evident purpose is to carry into effect the treaty obligations with the Indians and at the same time to secure a productive settlement of the country with an increase

the revenues of the State by taxation, as well as the resources of the general government, by the added improvements and accumulations consequent upon such settlement.

The bill as introduced not being, in my judgment, sufficiently explicit in its detail effect the objects intended, I have, with some care, drafted a substitute, which I rewith submit, and which I respectfully suggest will more fully express the necesry provisions.

With reference to section 2 of the bill (section 5 of the substitute) respecting the ght of the State to tax the lands, and aiding a purchaser at tax sale in case of default the part of the settler to pay the purchase-price and take his patent, I have to remark at I do not consider the matter of any importance in its relation to the public land stem or as requiring from me any opinion touching its merits. It is for Congress to y whether or not it will aid the enforcement of State legislation and interpose the tent of the United States as a bar to the equities of redemption provided for parties able to taxation for local or State purposes.

The provisions of the bill, as drawn by me, will only give the party paying the tax, ter complete default by the settler, the right to take the lands in preference to a rchaser at the public sale on the day of offering, and cannot, therefore, by any possibility defeat any claim of such settler, or bar any privilege except the mere common ght to bid against all the world for the lands which he has had ample opportunity, en after advertisement, of fully securing. In this view of the matter I have, therere, to say that while I have no recommendations to offer, I see no objection to the corporation of the section as it stands in the substitute.

It will be apparent by a reference to lines 6, 7, 8, 9, and 10 of section 2 in the original ll, that their import would be to limit the power of the State to provide her own medies for the enforcement of her laws, and I have consequently amended the phraseogy of the contest, and omitted a clause embraced in those lines which does not comand my favorable judgment.

With the foregoing suggestions and exceptions, looking at the whole scope of the ll, I am of the opinion that the enactment of the substitute submitted, either with or ithout the incorporation of section 5, will work advantageously to the United States well as to the Indians, and may with propriety be consummated.

I am, sir, very respectfully, your obedient servant,

J. A. WILLIAMSON,
Commissioner.

Hon. C. SCHURZ,
Secretary of the Interior.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 275.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1880.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 944.]

The Committee on Military Affairs, to whom was referred the bill (S. 944) for the relief of John Grierson, has duly considered the same, and submit the following report:

This bill proposes to pay to John Grierson, late a second lieutenant Company H, Fourteenth New York Volunteer Artillery, the full pay of second lieutenant from July 13, 1864, to May 6, 1865, inclusive, less the pay during that time of a first sergeant in the infantry service and commutation of rations for seven months while held as a prisoner of war. The petition (being a letter addressed to Senator Logan) states that he enlisted in the Fourteenth Regiment New York Artillery, and was mustered as a private December 7, 1863, and on July 13, 1864, was recommended for promotion for second lieutenant and immediately entered upon the duties of that office, and on July 30, 1864, was captured in front of Petersburg, Va., and held as a prisoner until March 31, 1865, and that on April 28, 1865, having reported to the commanding officer of his regiment, he was assigned to duty and applied for muster in as such second lieutenant. He further states that his commission as second lieutenant came to regimental headquarters August 1, 1864; was mislaid and not found until after he had obtained a duplicate copy from the adjutant-general of New York. He further states that his company had been depleted and had not names enough upon its muster-roll to admit of his muster as second lieutenant, and for various other pretexts he was not mustered as second lieutenant till July 7, 1865, and that by a general order of the War Department he could only be mustered back sixty days; and that in consequence he lost the difference between the pay of a first sergeant and a second lieutenant from July 13, 1864, to May 6, 1865, and that the amount thereof is $1,045.44; and that he has made several attempts to have his claim adjusted through claim agents.

Accompanying the petition are sundry testimonials respecting the character of claimant, and also his muster-in roll, which shows that he was mustered in as second lieutenant May 7, 1865, vice Lieutenant Norton, promoted, and his commission, issued by Governor Seymour, of New York, dated July 14, 1864, with rank from July 13, 1864.

Your committee referred the bill to the Secretary of War for informa-

tion and report, and received the following letters from the Secretary of War and the Adjutant-General, to wit:

WAR DEPARTMENT,
Washington City, February 9, 1880.

SIR: I have the honor to return herewith Senate bill 944, for the relief of John Grierson, late second lieutenant Company H, Fourteenth New York Heavy Artillery, with report of the Adjutant-General dated the 7th instant, containing the information desired in your letter of the 29th ultimo transmitting the bill to this department.

Very respectfully,

ALEX. RAMSEY,
Secretary of War.

Hon. F. M. COCKRELL,
United States Senate.

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE.
Washington, D. C., February 7, 1880.

SIR: I have the honor to return herewith the communication of Hon. F. M. Cockrell, United States Senator, dated the 29th ultimo, inclosing S. bill No. 944, for the relief of John Grierson, late second lieutenant Company H, Fourteenth Regiment New York Heavy Artillery, and requesting to be furnished with the military history of said officer and certain information relative to his case, and to report that the records of this office show that John Grierson was mustered into the service of the United States as a private in Company G, Fourteenth New York Artillery, December 17, 1863. He was promoted corporal in said company January 26, sergeant April 11, and first sergeant June 24, 1864.

On the muster-roll of Company G for July and August, 1864, he is reported first sergeant missing in action, and on roll of same company for September and October, 1864, "prisoner of war since July 30, 1864." He is borne as a prisoner of war until the roll of company for March and April, 1865, which again reports him present for duty, and he is similarly reported on the roll for May and June, 1865.

He was discharged as first sergeant Company G, and mustered in as second lieutenant Company H, Fourteenth Regiment New York Heavy Artillery, to date May 7, 1865, and mustered out as of the latter grade with his company on August 26, 1865.

Attention is respectfully invited to the marked paragraphs of the inclosed printed slip, wherein it is seen that an enlisted man, prior to his muster into the service as a commissioned officer, must have received his commission or appointment from competent authority, be physically qualified for duty, and with his command; a vacancy must also exist.

There is no record on file in this office of service rendered by Mr. Grierson as second lieutenant Company H, Fourteenth Regiment New York Heavy Artillery, prior to the date of his muster in as such, his name appearing on the rolls of Company G to that date as first sergeant; neither did a vacancy exist for him in said company until April 28, 1865, caused on that date by the promotion of Second Lieutenant William H. Norton to be first lieutenant.

No application appears to have been received at this office from Mr. Grierson for pay as second lieutenant prior to the date of his muster in as such, and consequently without a reference to the Adjutant-General of New York the date of his commission in that grade cannot be ascertained.

Under the circumstances, however, no favorable action could have been taken in the case under the laws and regulations governing the department.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

The Hon. SECRETARY OF WAR.

The following General Orders issued by the War Department and the following acts and resolutions passed by Congress form the regulations and laws touching the organization, muster in, muster out, and commissioning of the officers and soldiers of the Volunteer Army, and determine the status of this case, to-wit:

[General Orders No. 15, May 4, 1861.]

The volunteers called into service under the proclamation of the President of the United States, dated the 3d day of May, 1861, will be subject to the laws and regulations governing the Army of the United States.

AN ACT to authorize the employment of volunteers to aid in enforcing the laws and protecting public property.

* * * * * * *

SEC. 2. *And be it further enacted*, That the said volunteers shall be subject to the rules and regulations governing the Army of the United States, and that they shall be formed

President into regiments of infantry, with the exception of such numbers for y and artillery as he may direct, not to exceed the proportion of one company h of those arms to every regiment of infantry, and to be organized as in the reg- ervice. Each regiment of infantry shall have one colonel, one lieutenant-colonel, ajor, one adjutant (a lieutenant), one quartermaster (a lieutenant), one surgeon e assistant-surgeon, one sergeant-major, one regimental quartermaster-sergeant, gimental commissary-sergeant, one hospital steward, two principal musicians, renty-four musicians for a band, and shall be composed of ten companies, each ny to consist of one captain, one first lieutenant, one second lieutenant, one first nt, four sergeants, eight corporals, two musicians, one wagoner, and from sixty- eighty-two privates.

* * * * * * *

4. *And be it further enacted,* * * * *

overnors of the States furnishing volunteers under this act shall commission the staff, and company officers requisite for the said volunteers.

* * * * * * *

roved July 22, 1861.

[General Orders No. 61, August 19, 1861.]

* * * * * * *

en one-half a company has been mustered into service, the first lieutenant thereof so be mustered in, and when the organization of the company is completed, the n and second lieutenant can be so mustered.

* * * * * * *

d and staff officers of regiments can be mustered into service upon the comple- f the organization of regiment or companies, as follows:

nel—entire regiment.
tenant-colonel—four companies.
or—six companies.
plain—entire regment.
geon—entire regiment.
itant—entire regiment.
rtermaster—entire regiment.
stant surgeon—entire regiment.

* * * * * * *

[General Orders No. 66.]

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, August 26, 1861.

he commissioned officers of all volunteer and militia organizations, no matter er established under the authority of a State or of the United States, *will be re- as having been commissioned on the day when mustered into the service of the United and will take rank in their respective grades, will be entitled to pay, and be obeyed and ed in their several positions from that date.*

Hereafter no minors will be mustered into the service of the United States as eers without the consent of their parents or guardians.

Capt. Gurden Chapin, Seventh Infantry, having given proof of disloyalty, is sed the service of the United States, to take effect from the date of this order. order.

L. THOMAS,
Adjutant-General.

[General Orders No. 75, July 8, 1862.]

organizing new regiments of volunteers, the governors of States are hereby au- ed to appoint, in addition to the staff officers heretofore authorized, one second ant for each company, who shall be mustered into the service at the commence- f the organization, who shall have authority to muster in recruits as they are d. If any recruit shall be enlisted by such officer, who shall afterwards, on l inspection, prove to have been obviously unfit for the service at the time of istment, all expenses caused thereby shall be paid by such officer, to be stopped t him from any payment that may be coming to him from the government there-

officer, thus appointed and mustered, shall only be entitled to be paid on the and pay roll of his company, and should he fail to secure an organized com- within such reasonable time as the government may designate, his men may be rred to some other company, his appointment be revoked, and be discharged it pay; unless the government shall think proper to give him a position in the idated company to which his men have been transferred.

[General Orders No. 48, February 25, 1863.]

The following regulations are established in regard to musters into and out of the service of the United States of officers and enlisted men of volunteers in the field:

I. Only officers of the Regular Army (including additional aides-de-camp appointed by the President under the act approved August 5, 1861) will be detailed to muster into and out of the service of the United States, and *no officer will make these musters unless detailed to do so by competent authority.*

* * * * * * *

IV. Commanders of corps or departments will see that each regiment, independent company, &c., is assigned to some one of the assistant commissaries of musters under their command. The commissaries of musters will be responsible to the Adjutant-General of the Army for the correctness of the musters and muster-rolls in their corps, *and no officer shall be mustered in or out, except by a commissary or assistant commissary of muster, to whom the command to which he belongs has been assigned.*

V. No officer or enlisted man of volunteers is properly in the service of the United States, or authorized to receive pay, until mustered in by the proper officer; and no officer is properly out of service until discharged in orders, or mustered out by the proper officer. *One copy of the rolls or order in each case must be forwarded to this office.*

* * * * * * *

VIII. The following rules will be observed in all musters in or out:

1st. An officer must present his commission or appointment from the governor of the State to which the regiment or organization into which he desires to be mustered belongs.

2d. The mustering officer must ascertain from the records of the regiment or organization, such as muster-rolls, monthly returns, and morning reports, that a vacancy exists.

3d. If an officer has been commissioned, as above, and a vacancy exists, and he is *physically fitted* for duty, he may be mustered into the service of the United States, *from the date of which the muster in actually takes place.*

4th. *No muster-in shall be dated back without authority from the Adjutant-General*, except upon proof that it could not have been made at an earlier date, which proof shall consist of the affidavit of the officer, accompanied by that of his regimental or detachment commander, setting forth that he has made all proper efforts to have himself mustered in, but without success, before the time at which he now presents himself. These affidavits must be attached to the copy of the muster-in roll intended for the Adjutant-General.

5th. No officer shall be mustered in to date back beyond the time that he has *actually been performing the duties of the grade into which he desires to be mustered*, nor beyond the time at which a vacancy is proved to have existed by the regimental or company records. *If on the muster and pay rolls the applicant appears mustered for pay in one grade, he cannot be mustered into the service, to cover the same period, as of any other.* Gross errors on this point are frequently committed by mustering officers; therefore, special attention is invited to it.

6th. Musters into and out of service must be made for each new grade of commissioned officers, as well as when enlisted men or citizens are appointed commissioned officers. A discharge in orders, or by order of the proper authority, is in all cases a muster-out of the service of the United States, and *no muster-out rolls will be furnished in such cases.*

7th. Muster in and out must be made on separate rolls, and a separate roll must be made for each grade. *Officers or enlisted men of different companies or regiments must not be mustered in, or out, on the same rolls.*

8th. Hereafter, no person will be taken up on any muster-rolls as an officer, of any grade, until mustered into the service of the United States as such in that grade, whether he be commissioned by the governor or not, unless he be appointed or commissioned by the President.

9th. A muster once made will in no case be altered, except by authority from the Adjutant-General of the Army, and all applications for alteration must pass through the mustering officer, if possible.

10th. Troops organizing in their respective States—including recruits for regiments in the field—and those organized and not in the field, will be mustered by the duly appointed mustering officers for the States. *Said officers have no authority to muster commissioned officers belonging to organizations which have left the State.*

11th. Enlisted men having received commissions or appointments will not be mustered in as commissioned officers until they shall have been discharged as soldiers by the department or corps commander.

* * * * * * *

AN ACT for enrolling and calling out the national forces, and for other purposes.

* * * * * * *

SEC. 19. *And* be it further enacted, That whenever a regiment of volunteers of the same arm, and from the same State, is reduced to one-half the maximum number pre-

scribed by law, the President may direct the consolidation of the companies of such regiment: *Provided*, That no company so formed shall exceed the maximum number prescribed by law. When such consolidation is made, the regimental officers shall be reduced in proportion to the reduction in the number of companies.

SEC. 20. *And be it further enacted*, That whenever a regiment is reduced below the minimum allowed by law, no officers shall be appointed in such regiment beyond those necessary for the command of such reduced number.

Approved March 3, 1863.

* * * * * * *

[General Orders No. 86, April 2, 1863.]

I. Under the authority contained in sections 19 and 20 of the act "for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, it is ordered that for each and every regiment of the volunteer army *now reduced, or that n ay be reduced hereafter, as set forth in said sections*, consolidation shall be made in accordance with the following rules:

INFANTRY.

1. Each regiment will be consolidated into *five, or a less number of companies*, and the colonel, major, and one assistant surgeon mustered out.

CAVALRY.

2. Each regiment will be consolidated into *six, or a less number of companies*, and the colonel, two majors, and one assistant surgeon mustered out.

ARTILLERY.

3. Each regiment will be consolidated into *six, or a less number of batteries*, and the colonel, two majors, and one assistant surgeon mustered out.

4. The companies and batteries formed by consolidation will be of the maximum strength, and will be organized as now directed by law and regulation. *The first letters of the alphabet will be used to designate the companies.*

5. The company officers—commissioned and non-commissioned—rendered supernumerary, with those enumerated in the foregoing, will be mustered out of service at the date of consolidation. All other officers and non-commissioned officers will be retained.

6. The officers to be retained will be selected by the division and corps commanders, under the instructions of the commanding general of the army or department, from among the most efficient officers of the respective regiments.

II. After the consolidations, as herein directed, the reduced proportion of officers will be maintained, and no appointments to vacancies will be made, except upon notification from the Adjutant-General of the Army.

* * * * * * *

[General Orders No. 182, June 20, 1863.]

I. Under the requirements of section twenty of the act "for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, it is ordered that the following rules shall govern, whenever a regiment is "*reduced below the minimum number allowed by law*," but is of a strength above half the maximum.

INFANTRY.

1. Each regiment will be deprived of the colonel and one assistant surgeon. Each company—provided it is reduced below the minimum—will be deprived of the second lieutenant.

CAVALRY.

2. Each regiment will be deprived of the colonel, one major, and one assistant surgeon. Each company—provided it is reduced below the minimum—will be deprived of the econd lieutenant.

ARTILLERY.

3. Each regiment will be deprived of the colonel, one major, and one assistant surgeon. Each company (battery)—provided it is reduced below the minimum—will be deprived of the additional officers, authorized to be added at the President's discretion. (See G. O. 110, A. G. O., 1863.)

There being no minimum for artillery, fixed by existing orders, the minimum for the object herein named will be 1,044 aggregate, for a regiment, and 86 aggregate, for a battery.

II. In reaching the reduced standard herein fixed, all officers in the enumerated grades—*one property a service*—will be retained until the said grades become vacant by the usual casualties of the service. After the reductions are thus made, the reduced proportion will be maintained, and the appointments to vacancies—*in the proper component*—will be made exclusively upon promotion from the commissioned officers of the Department or corps, that *component or where the vacancies*. To this end the commissioned officers will report weekly to the governor of the State, or appointing power, through the commanding general of the *department or corps*.

* * * * * * *

JOINT RESOLUTION for the relief of certain officers of the Army.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in every case in which a commissioned officer actually entered on duty as such commissioned officer, but by reason of being killed in battle, captured by the enemy, or other cause beyond his control, and without fault or neglect of his own, was not mustered within a period of not less than thirty days, the Pay Department shall allow to such officer full pay and emoluments of his rank from the date on which such officer actually entered on such duty as aforesaid, deducting from the amount paid in accordance with this resolution all pay actually received by such officer for such period.

SEC. 2. *And be it further resolved*, That the heirs or legal representatives of any officer whose muster into service has been or shall be amended hereby shall be entitled to receive the arrears of pay due such officer, or the pension provided by law for the grade into which such officer is mustered under the provisions of the first section of this resolution.

Approved July 26, 1866.

(See 14 Statutes, page 368.)

The joint resolution amendatory thereof is as follows, to wit:

(No. 102.) JOINT RESOLUTION amendatory of "Joint resolution for the relief of certain officers of the Army," approved July twenty-six, eighteen hundred and sixty-six.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That joint resolution entitled "Joint resolution for the relief of certain officers of the Army," approved July twenty-six, eighteen hundred and sixty-six, shall be so construed and amended that in all cases arising under the same the person to whom the commission shall have issued shall be considered as commissioned to the grade named therein from the date when the commission was issued by competent authority, and entitled to all pay and emoluments as if actually mustered at that date: *Provided*, That at the time of the issuing of the same he was performing the duties of the grade to which he was commissioned, or from such time after the issuing of his commission as he may have actually entered upon such duties.

SEC. 2. *And be it further resolved*, That persons held as prisoners of war by the enemy, or who may have been in hospital by reason of wounds or disability at the time of the issuing of their commissions, shall be entitled to the same pay, emoluments, and benefits under this resolution as if actually performing the duties of the grade to which they were commissioned.

SEC. 3. *And be it further resolved*, That this resolution shall not be construed to apply to cases in which under the laws and Army regulations existing at the time there could have been no lawful muster into service, even after the actual receipt of the commission.

Approved July 11, 1870.

From the foregoing general orders or regulations and laws, all volunteers during the late war were subject to the rules and regulations governing the Army of the United States, and that the governors of the States, respectively, furnishing such volunteers, commissioned the field, staff, and company officers requisite for the same, and that each company of infantry consisted of one captain, one first lieutenant, one second lieutenant, one first sergeant, four sergeants, eight corporals, two musicians, one wagoner, and from sixty-four to eighty-two privates, the minimum of privates being sixty-four; and that when one-half a company was mustered into service the first lieutenant could be mustered in, and when the organization of the company was completed the captain and second lieutenant could be mustered in, and that all commissioned officers were regarded as commissioned on the day when mustered into the service of the United States and took rank, were entitled to pay

and to be obeyed from that date; that only officers of the Regular Army were detailed as mustering officers when properly assigned to such duty, and that no officer or enlisted man was properly in the service or entitled to pay until properly mustered in, and that to entitle an officer to be mustered in he must present his commission from the governor of his State, and a vacancy must exist in the office for which he is commissioned, and the regiment or company contain the minimum number prescribed by law, and that such officer was physically fitted for duty.

Enlisted men commissioned as officers could not be mustered in as officers until they were discharged as soldiers by the department or corps commander, and that no muster-in should be dated back without authority from the Adjutant-General, except upon proof by the affidavit of the officer accompanied by that of his regimental or detachment commander that it could not have been made at an earlier date, and that he has made all proper efforts to have himself mustered in, but without success, before the time at which he presented himself, and that such affidavits must have been attached to the copy of the muster-in roll intended for the Adjutant-General, and that no officer could be mustered in to date back beyond the time that he had been actually performing the duties of the grade for which he had applied for muster-in, nor beyond the time at which a vacancy was proved to have existed by the regimental or company records.

It is further seen that when regiments were reduced to one-half the maximum numbers prescribed by law, the President could direct the consolidation of the companies of such regiment, and the regimental officers reduced in proportion to the reduction of companies, and that when a regiment was reduced below the minimum no officer could be appointed therein beyond those necessary for the command of such reduced number, and that consolidated companies should not exceed the maximum strength, and the supernumerary company officers were mustered out at the date of consolidation, and after such consolidation the reduced proportion of officers were to be maintained and no appointments to vacancies made except upon notification from the Adjutant-General of the Army, and that each company reduced below the minimum should be deprived of the second lieutenant, and that the minimum for artillery, after June 20, 1863, was 1,044 aggregate for a regiment, and 86 aggregate for a battery.

In order to afford relief to officers of the Army, the joint resolution of July 26, 1866, was enacted, which provided that when a commissioned officer actually entered on duty as such, but by reason of being killed in battle, captured by the enemy, or other cause beyond his control and without fault or neglect of his own, was not mustered in within a period of not less than thirty days, the Pay Department should allow to such officer the full pay and emoluments of his rank from the date he actually entered on duty, deducting all pay actually received during such period.

In order to provide further relief in cases of hardship, the joint resolution of July 11, 1870, amendatory of that of July 26, 1866, which provided that the person to whom the commission was issued should be considered as commissioned to the grade therein named from the date of the issue of the commission by competent authority, and entitled to all pay and emoluments as if actually mustered at that date, provided that he was then performing the duties of the grade, or from such time after the issuing of his commission as he actually entered upon such duties, and that all persons held as prisoners of war by the enemy, or in hospital by reason of wounds or disability at the time of the issuing

of their commissions were entitled to the same pay, emoluments, and benefits as if actually performing the duties of the grade of their commission, provided under the laws and regulations existing at the time there could have been a lawful muster into service after the receipt of the commission.

In this particular case it appears from the military record of John Grierson and his company that he was mustered in as a private in Company G, Fourteenth New York Artillery, December 17, 1863; promoted corporal January 26; sergeant, April 11; and first sergeant, June 24, 1864; and that for July and August, 1864, he is reported first sergeant, missing in action; and for September and October, 1864, prisoner of war since July 30, 1864, and he was so reported until the roll for March and April, 1865, when he was reported present for duty, and was so reported on the roll for May and June, 1865. He was discharged as first sergeant Company G, and mustered in as second lieutenant Company H, Fourteenth New York Heavy Artillery, to date May 7, 1865, and mustered out August 26, 1865, and that there is no record of any service rendered by him as second lieutenant Company H, Fourteenth New York Heavy Artillery, prior to the date of his muster-in as such, and that no vacancy existed in said Company H until April 28, 1865, which vacancy was then caused by the promotion of Second Lieutenant William H. Norton to be first lieutenant, and that no application for the pay herein asked for was ever made to the Adjutant-General.

Under the regulations and laws hereinbefore quoted, and the uniform rule of this committee, Lieutenant Grierson is not entitled to the pay claimed in said bill; and your committee therefore recommend that said bill be indefinitely postponed, and the claim therein presented be not allowed, and this report be adopted.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 276.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1880.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1180.]

Elizabeth Wolf was granted a pension by special act March 3, 1875. This bill proposes to give her arrears from March 3, 1864.

There is nothing to distinguish this case from the great mass of similar applications which have been uniformly refused, and are not allowable under the general law. The claim, like others of this class, must be met by some general measure applicable to all.

The committee recommend that the bill do not pass.

CONGRESS, Session. } SENATE. { REPORT No. 278.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 18, 1880.—Ordered to be printed.

HOAR, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 553.]

mmittee on Claims, to whom was referred the bill (S. 553) entitled "A or the relief of Elisha Bass," have considered the same, and report:

emorial of the said Bass asking for the relief given by this bill on me facts was presented to the last Congress and an adverse report by Mr. McMillan, adopted by the Committee on Claims, and the disallowed by the Senate, as there recommended.

fifty-eighth rule of the Senate provides that:

ever a claim is presented to the Senate and referred to a committee and the tee report that the claim ought not to be allowed, and the report shall have reed to by the Senate, it shall not be in order to move to take the papers from for the purpose of referring them at a subsequent session, unless the claimant esent a memorial for that purpose, stating that new evidence has been discov- ce the report, and setting forth the new evidence in the memorial.

spirit of this rule requires a disposition of the present bill with- consideration of the merits. All the facts established now were shed at the former session. The introduction of a bill instead of ion does not alter the case.

have, however, considered the matter again, and are satisfied he report of Mr. McMillan, which is subjoined, and reaffirm its sions. We recommend that the bill be indefinitely postponed.

[Senate Report No. 48, Forty-fifth Congress, second session.]

ous to the war of the rebellion the memorialist, Bass, was the owner of cer- mises in the city of Brownsville, Tex., known as "Shannondale," and occu- same as his homestead, and has ever since been and now is the owner of the emises, which contain about ten acres of land fronting on the Rio Grande. In 861, Bass removed to the State of California, and placed the premises in of one Mifflin Kennedy, and, remaining in California during the war, returned city of Brownsville in 1867.

e time the said premises were so placed in the charge and care of said Ken- ere were erected thereon numerous buildings, to wit, two dwelling-houses, the e of said Bass, of the value of $3,500; one small house for servants, of the $500; stable, and several outhouses.

id premises were also an orchard of bearing tropical fruit trees, about fifty in , and a large grapery, and extensive flower-garden and shrubbery, filled with nts and shrubs, and a large number of old and valuable shade-trees.

was also on said premises and near the residence a valuable well, with the y fixtures attached; also, about twenty thousand building-brick.

time Bass removed to California, in April, 1861, and at the time said prem- e placed in the charge and care of said Kennedy, the improvements above ed were in good order and the grounds in a high state of cultivation.

absence of Bass, the premises were occupied by Kennedy as a summer resi-

In November, 1863, upon the arrival at the city of Brownsville of the military expedition to the Rio Grande, under Maj. Gen. N. P. Banks, the proper military authorities of the United States took possession of the said premises and occupied the same for military purposes, and continued to so occupy the same until the 12th day of April, 1867, except while the United States forces were absent from the frontier. During the greater part of such occupation said premises were used for the purpose of a general hospital. During such occupation the buildings were razed and destroyed, except one small house left in a dilapidated condition, the materials used for military purposes or destroyed, the fences and fencing materials totally destroyed, and all the improvements upon the said premises, together with all the personal property thereto belonging, were destroyed, carried away, or appropriated by the said military authorities, leaving said premises completely desolate and uninhabitable, except the dilapidated small house mentioned above, and a few scattering shade-trees in its immediate vicinity; and the said military authorities constructed upon the said premises extensive fortifications or earth-works, thereby greatly injuring said lands and involving great expense to the claimant in leveling said earth-works and restoring said lands to a condition in which they may be used for agricultural or other useful purposes.

The claimant states the value of the property described and the amount of damages he has suffered on account of the destruction of property and injury to his said premises in various items, amounting in all to the sum of $14,425.

There is no testimony tending to show that the occupation of the premises by the military authorities, and the injury to the property as stated by the witnesses, was not a military necessity on the part of the United States forces.

The petitioner's loyalty to the United States Government before, during, and since the war is stated by all the witnesses.

This, then, is a case where the premises occupied and injured were situate in a State in rebellion at the time of such occupancy and injury, but owned by a person who was a loyal citizen of the United States; such occupation and injury being a military necessity; for, in the absence of all evidence to the contrary, such is the presumption.

The rebellion was so far successful as to result in the temporary organization of a government embracing all the "Confederate States," among others the State of Texas, in which the premises in question are situate.

This Confederate Government, by the action of the United States Government, became entitled to all the rights and subject to the responsibilities of a belligerent nation in war, as did also the United States Government.

The provision of the Constitution of the United States requiring just compensation for private property taken for public use does not apply to a case like the one under consideration.

The law of nations as to belligerent nations in war must regulate and determine the rights of the claimant.

The rule, as we understand it, is that for property within an enemy's country taken or destroyed in time of war, as a military necessity, the owner, whether actually an enemy or a legal citizen or subject, is not entitled to compensation. (The Gray Jacket, 5 Wall., 342.)

We take notice of the fact that the President of the United States by his proclamation dated the 20th day of August, 1866, declared that the insurrection which had existed was at an end, and that the claimant's witnesses testify that the United States forces took possession of his premises about the 7th of November, 1863, and that said premises remained in the possession and occupation of said military authorities until the 12th of April, 1867, except while the United States forces were temporarily absent from that frontier.

It is urged on behalf of the claimant that by virtue of the President's proclamation the war ended on the 20th day of August, 1866, and that the government is liable for the use and occupancy of the premises from that time until the 12th of April, 1867.

The proclamation of the President declaring the insurrection at an end recited, as one of the grounds upon which that proclamation was based, that adequate provision had been made by military orders to enforce the execution of the acts of Congress, aid the civil authorities, and secure obedience to the Constitution and laws of the United States within the State of Texas, if a resort to military force for such purpose should at any time become necessary.

Emerging from a war of such character as the rebellion, the government was entitled to a reasonable time to withdraw its forces from claimant's premises, and your committee are of opinion that, under all the circumstances, no liability was incurred by the government, conceding the possession to have been retained till the 12th day of April, 1867. (Lawrence's Rep., 208, 209.)

We are therefore of opinion that upon the facts here shown the government is not liable, and recommend that the claim be disallowed and that this report be adopted.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 279.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 18, 1880.—Ordered to be printed.

Mr. FERRY, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill S. 397.]

The Committee on Naval Affairs, to whom was referred the bill (S. 397) for the relief of certain naval officers, submit the following report:

Complaint is made in the petition which accompanies this bill, by Passed Assistant Engineer W. A. H. Allen, that owing to absence at foreign station when he had completed sea-service entitling him to examination for promotion, he was not, and could not be so examined until 1873, and that the commission which he now holds, dated November 22, 1872, should be dated back to the time when he completed his sea-service.

In response to the call of the committee the Secretary of the Navy transmits the following letter:

NAVY DEPARTMENT,
Washington, February 12, 1880.

SIR: I have the honor to return herewith, as requested, the papers inclosed in your letter of the 14th ultimo, relating to the case of Passed Assistant Engineer W. A. H. Allen, United States Navy.

Mr. Allen claims that he is entitled to a change of date of his present commission as a passed assistant engineer, from November 22, 1872, to May 18, 1868. He bases this claim upon the fact that he had completed the term of sea-service necessary to examination for promotion to his present grade at the latter date.

The following statement of facts from the record of Mr. Allen is respectfully submitted:

He was appointed third assistant engineer April 21, 1863, and on the 8th of December, 1864, he was promoted to the grade of second assistant engineer, to take rank as such from September 28, 1864.

Under the law existing at that time the number of officers in the grades of first, second, and third assistant engineers was left discretionary with the Secretary of the Navy, who was authorized to appoint as many in those grades as the wants of the service actually required (Stat. at L., volume 13, p. 393). This provision continued in force until the passage of the act of March 3, 1871 (Stat. at L., volume 16, p. 536), the 7th section of which limits the number of officers in each grade of the Engineer Corps. By this act the number of first assistant engineers was fixed at 100, and the grade was filled by promotions made in accordance with the established rules of the service, by seniority, from the officers in the next lower grade. Mr. Allen was promoted in due course by seniority to first assistant engineer, to fill a vacancy existing, November 22, 1872.

Mr. Allen presents the erroneous view that promotions should be governed by length of sea-service, while the sea-service required by regulations is a qualification for examination only, when, if the candidate should pass the required examination, he is promoted as vacancies occur in the grade, limited by law, for which he was examined. Under this law and the regulations then in force Mr. Allen was promoted in due course by seniority May 15, 1873, to rank from November 22, 1872, to fill a vacancy existing at the latter date in the grade of first assistant engineer. The act of Feb-

ruary 24, 1874, changed the title of first assistant and second assistant engineers to passed assistant and assistant engineers. (Stat. at L., volume 18, p. 17.)

In response to your further request for an opinion as to the propriety of granting the relief proposed by the provisions of Senate bill 397, I have respectfully to say that such action would be in violation of the act of July 4, 1864 (Stat. at L., vol. 13, p. 393), limiting the number in each grade of assistant engineers to the actual wants of the service at the date he desires his commission should bear, viz, May 18, 1868, as it must now be presumed that the actual wants of the service were filled by the promotion of those who were entitled to it by seniority. The principle involved, also, if set aside, would probably require a revision of other grades in the corps.

Very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. T. W. FERRY,
Committee on Naval Affairs, United States Senate.

It thus appears that sea-service is a qualification only to examination, and does not of itself entitle to promotion. Also, that between the date when petitioner had said qualification (in 1868), and the date when, owing to the character of his duty (1873), he could be examined, a law was passed March 3, 1871, limiting the number in each grade of the Engineer Corps of the Navy. In the same connection may be quoted a law of March 3, 1873, incorporated in section 1495 of the Revised Statutes.

SEC. 1495. Officers subject to examination before promotion to a grade limited in number by law, shall not be entitled to examination in such sense as to give increase of pay until designated by the Secretary of the Navy to fill vacancies in the higher grade; and officers eligible for promotion to a grade not limited in number shall not be entitled to examination until ordered to present themselves for examination, or until a class in which they are included has been so ordered by the Secretary of the Navy.

Many cases occur where the passage of laws changing former customs and regulations appear to discriminate against those who, had circumstances permitted, might have availed themselves of earlier existing privileges.

Some date must be fixed for laws to go into effect, and where no absolute and clearly defined right has been disregarded in general legislation—and this is not urged or sustained by facts in the case under consideration—your committee is of the opinion that private relief should not be granted.

Concurring also in the views of the Secretary as to the injury to the service, and violation of settled principles in the Navy Regulations, which would be caused by the passage of this bill, your committee recommend its indefinite postponement.

O

'TH CONGRESS, 2d Session. } SENATE. { REPORT No. 280.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 18, 1880.—Ordered to be printed.

r. McDONALD, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill S. 87.]

he Committee on the Judiciary, to whom was referred the bill (S. 87) for the relief of John J. Key and W. G. M. Davis, make the following report:

Messrs. Key and Davis were employed on the 13th day of July, 1876, the then Attorney-General of the United States, Alphonso Taft, to sist the attorney in the case of Alexander Collie against the United ates, as will be seen by the following letter of that date:

DEPARTMENT OF JUSTICE,
Washington, July 13, 1876.

SIR: You are hereby appointed special assistant to the Attorney-General in the case Alexander Collie against the United States (No. — in the Court of Claims), to pro- re affidavits and testimony upon which to base a motion for a new trial in that case; d, to accomplish the purposes of this commission, you are authorized, if it shall be cessary, to go to England and Scotland.

n the event that a new trial shall be obtained upon the testimony procured by you, u are commissioned to assist the Attorney-General in the further management of e case.

You will take the oath prescribed for district attorneys, and file the same in this partment.

For your services in this behalf such compensation will be paid you as shall be emed reasonable by the Attorney-General.

Very respectfully,

SEAL.] ALPHONSO TAFT,
Attorney-General.

The cause in which they were thus employed had been tried in the urt of Claims, and judgment rendered against the United States for e sum of $953,000, and was pending in the Supreme Court of the nited States on a writ of error on appeal, with the prospect of the dgment being affirmed. The object of the employment was to secure, rough the efforts of Key and Davis, new and important evidence in pport of an application for a new trial, and also to aid the attorney in e argument in the motion for a new trial, and in such other proceed- gs as might have to be taken in the cause. The compensation filed the Attorney-General, as shown by a letter written by Alphonso ft after he had gone out of office, dated June 6, 1877, was to be at the te of $10.66 per day and expenses, which was to be their only com- nsation if the government failed, on the evidence obtained by them, to t a new trial; but if they should succeed in obtaining evidence which ured a new trial, their services were to be continued in the case, and ey were to be liberally compensated in the event of final success.

The letter of the late Attorney-General, above referred to, is made a part of this report, and is as follows:

CINCINNATI, *June* 6, 1877.

DEAR SIR: I have received a communication from Judge J. J. Key, of Washington, in behalf of himself and Gen. W. G. M. Davis, desiring that I should state to you the circumstances under which they were appointed special assistants of the Attorney-General in the Collie case.

That case had been tried in the Court of Claims before I was Attorney-General, and a judgment rendered against the United States for $953,000, and the case had been appealed to the Supreme Court, where it was pending on a record which, I fear, was not promising.

These gentlemen gave me the information which satisfied me that there had been a failure to procure all the evidence which was procurable, and which was very material to the result of the suit.

On the strength of their representations and of the transcripts of documents found by them in the rebel records, I caused a motion for new trial to be made in the Court of Claims and a motion for postponement of the hearing in the Supreme Court United States, and employed these gentlemen to go to England and procure the testimony which they said existed there, to be used on the motion for a new trial. I fixed a compensation for them while engaged in this service of $10 per day each and expenses, which would be their only compensation if we failed, on the evidence obtained by them, to get a new trial; but if they should succeed in obtaining evidence which secured a new trial, I told them that I should expect them to continue their services in the case and be liberally compensated in the event of final success.

They went to England and procured what I regarded as material evidence, and it was presented to the Court of Claims on the motion for new trial. I thought it right under the circumstances to let them share in the argument of the motion.

General Davis and Assistant Attorney-General Smith argued the motion, a new trial was granted, and the case was, on motion to the Supreme Court of the United States, remanded to the Court of Claims for a new trial.

The evidence for the new trial was taken in the form of affidavits. In preparing for the new trial the evidence had to be taken in the form of depositions. This double expense could not be avoided. By the new trial the case stands far better; indeed, I hope the case will now be saved; I believe that the claim ought not to be enforced. I regard it as a fraud and an outrage. It would be making the United States pay these speculators for aiding the rebel government to carry on the war against us. It was not merely a commercial speculation. It was a partisan service they were engaged in. They made voluntary contributions of guns and war material to the support of the Confederate Government. I continued the employment of Key and Davis in the preparation for the new trial, to act, of course, in connection with the Attorney-General and his assistants and without prejudice to the control of the Attorney-General; and if the defense should be successful I should have also thought it reasonable to give them liberal fees, and I so informed them. What should be liberal fees under the circumstances would remain in the discretion and judgment of the Attorney-General. I did not undertake to fix the rate of compensation, but I did think they had earned a right to be continued as assistant counsel in the case, and in the event of success to be paid liberally as counsel of the United States in an important cause.

So far as I could observe they were faithful and performed what they undertook with skill and energy. I presume that this statement is quite unnecessary, but at the instance of Judge Key I make it. I think that Mr. Phillips, the Solicitor General, or Mr. Smith or Mr. Simons can give you all the information of the subject (in addition to the written appointment) which may be necessary to enable you to deal justly by these gentlemen.

Yours, very truly,

ALPHONSO TAFT.

HON. CHARLES DEVENS,
Attorney-General United States.

It abundantly appears from the facts submitted to the committee that the services rendered by these gentlemen under this appointment were of very great benefit to the government and involved great labor on their part. The testimony procured by them in England and the Southern States enabled the government to obtain the new trial sought and to finally defeat the claim, thus saving to the government the large sum for which judgment had been rendered against it, and, to use the language of Attorney-General Taft, they performed the duties undertaken

by them with skill and energy, and that their duties involved legal services in aiding in the argument of the motion for a new trial and for the preparation for the trial as well as procuring testimony.

It appears from the statement of the present Attorney-General that for all these services and for the expenses incurred these gentlemen have received a total sum of $10,000.27; of this sum Mr. Davis has received for his services the sum of $2,980, and Mr. Key for his services the sum of $3,570, and in addition, and for the expenses of both gentlemen the sum of $3,450.27, making the aggregate above stated, being all, in the opinion of the present Attorney-General, that he feels authorized to allow. But the committee are of the opinion that the spirit of the agreement under which these gentlemen were employed, as well as the important services rendered by them to the government, entitles them to that reasonable additional compensation which the late Attorney-General refers to in his letter above quoted; and the committee have fixed that at the sum named in the substitute reported, which, in view of the fact that by their efforts, skill, and energy there was saved to the government the sum of $953,000, being the amount of the judgment which had been rendered in favor of the claimants at the time they were employed, the committee think is a very reasonable compensation to them, and therefore recommend that the bill be amended as suggested, and as thus amended that it be passed.

O

H CONGRESS, 2d Session. } SENATE. { REPORT No. 281.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 18, 1880.—Ordered to be printed.

GROOME, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 281.]

: Committee on Claims, to whom was referred the bill (S. 281) for the elief of Emma G. Nelson, executrix, and Aaron H. Nelson, executor of he estate of W. F. Nelson, deceased, have carefully considered the subject-natter, and report:

That they find the facts to be as stated in Senate report 695, made at third session of the last Congress, which report they adopt as their n; and they recommend the passage of the bill referred to them, ich is identical with the bill which accompanied said report. That ort is as follows:

appears from the petition and accompanying papers that Rev. W. F. Nelson was ointed chaplain of the United States Army on the 8th day of August, A. D. 1862, was assigned to duty at the United States Hospital at Cincinnati, Ohio, and con-ed in said service at said place until July 28, 1865.

ne law of July 17, 1862, provides that "the compensation of all chaplains in the ular or volunteer service or Army hospitals shall be one hundred dollars per month two rations a day when on duty," and Mr. Nelson was so paid until April 9, 1864, n the law was amended, and provided, among other things, that "Chaplains shall orne on the field and staff rolls next after surgeons, and shall wear such uniforms or may be prescribed by the Army Regulations, and shall be subject to the same s and regulations as other officers of the Army. They shall be entitled to draw ge for two horses, and when assigned to hospitals, posts, and forts, shall be entitled uarters and fuel within the hospitals, posts, or forts while they are so assigned, iout the privilege of commutation, subject to the same conditions as are now by provided in the case of surgeons. * * * In all other respects the pay of chap-s shall be the same as now provided by law."

on after the passage of the law of April 9, 1864, Chaplain Nelson made application ne surgeon in charge of said hospital to have quarters assigned to him, as will ap-from the following:

"WASHINGTON PARK UNITED STATES GENERAL HOSPITAL,
"*Cincinnati, April* 20, 1864.

SIR: I perceive by General Orders No. 158, current series, that chaplains are allowed rters at the hospital where they are stationed. I would, therefore, respectfully iest that quarters be furnished me in accordance with the above-mentioned order.

"Very respectfully, your obedient servant,

"W. F. NELSON,
"*Chaplain, United States Army.*

J. B. SMITH, M. D.,
"*Acting Assistant Surgeon U. S. A.,*
"*In charge Washington Park United States Hospital.*"

"WASHINGTON PARK UNITED STATES GENERAL HOSPITAL,
"*Cincinnati, Ohio, April* 20, 1864.

certify that there are and have been no rooms at the hospital suitable for chap-s quarters during the time it has been occupied by the United States Government;

that there is no ground within the hospital inclosure suitable for the location and erection of such quarters; and that, in consequence of the deficiency, Chaplain Nelson has been always compelled to provide his own quarters.

"J. B. SMITH,
"*Acting Assistant Surgeon, United States Army,*
"*In charge Washington Park United States General Hospital.*"

It appears from papers on file with the claim that Mr. Nelson presented his claim in his lifetime to the Paymaster-General, and that it was referred by that officer to Quartermaster-General for examination and remark, and was returned with the following indorsement:

"MARCH 5, 1874.—The papers are returned, with the statement that it does not appear from the records of the Quartermaster-General's Office that chaplains were allowed to draw commutation of quarters subsequent to the passage of the act of April 9, 1864; but that it appears *quarters were hired* for chaplains at rates varying from $20 to $32 per month, and the quarters of Chaplain Badger (who is referred to by Mr. Nelson as having drawn commutation) was hired at $20 per month."

It also appears from Mr. Nelson's letter to the surgeon in charge that after the passage of the law of April 9, 1864, he made application to have quarters assigned to him, and none were to be had inside the hospital, as provided by law, and as none were hired for him outside, he was compelled to hire and pay for the same himself.

The claim presented by the petitioner is for rent of three rooms and a kitchen, at the rate of $32 per month, for fifteen months and nineteen days.

This rent for that number of rooms in Cincinnati would not seem to be unreasonable, and as that amount seems to have been paid by the government in some other cases, your committee are of opinion it should be allowed in this case.

We therefore report the accompanying bill, directing the payment of the sum of $500.26 to the executors of the estate of W. F. Nelson, deceased, and recommend its passage.

TH CONGRESS, 2d Session. | SENATE. | REPORT No. 282.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 18, 1880.—Ordered to be printed.

Mr. GROOME, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 374.]

The Committee on Claims, to whom were referred the bill (S. 374) for the relief of James A. Heard, and the petition of the said James A. Heard, having considered the same, report :

That it appears from the petition and accompanying evidence that in 862, James A. Heard was a resident of Clarke County, Mississippi, and as the owner of fifty-nine bales of cotton, which were then on his plantation near Shubuta, in said county, ginned and prepared for market. hat in August of that year he entered into an agreement to sell, or ubscribe, this cotton to the Confederate Government. This agreement, subscription, the petitioner claims he could not refuse to make, beause of "the constraining influence of popular sentiment at the time." The petitioner claims that the ownership of this cotton was never tually transferred to the Confederate Government, but that after said reement to sell or subscribe it, this cotton continued to remain in his disturbed possession, and no agent of the Confederate Government eighed or marked it, or did any other act to assert that government's nership over it.

He further states that in August, 1865, after he had, as a member of e Reconstruction Constitutional Convention of Mississippi, taken an th to bear true allegiance to the Government of the United States, is cotton was, as he is informed and believes, seized and sold by the thority of the United States Government for about ten thousand dolrs, and that the proceeds of said sale were paid into, and still remain, the Treasury of the United States.

In December, 1875, as appears from the papers accompanying the petion, Mr. Heard began for the first time to collect the evidence upon hich to set up a claim to be paid the value of said cotton.

Assuming the facts to be as claimed by the petitioner, the committee e of opinion that he has wholly failed to make out a claim which ght to be allowed by the government, and therefore ask to be disarged from the further consideration of his petition, and recommend at the bill for his relief be indefinitely postponed.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 283.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 18, 1880.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1331.]

The Committee on Military Affairs, to whom was referred the resolution of the Senate hereinafter described, respectfully submit the following report:

The resolution submitted to the committee is as follows:

IN THE SENATE OF THE UNITED STATES,
February 3, 1880.

On motion by Mr. Maxey,

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency and propriety of such legislation as said committee may deem proper, authorizing worthy and meritorious non-commissioned officers of the United States army, who have faithfully and honorably served therein continuously a period of thirty years or upwards, to be placed on the retired-list, with such pay and allowances as may be just, and to report by bill or otherwise.

If it be expedient and proper to authorize by law the retiring of worthy non-commissioned officers of the United States Army in any case, then the questions arise: What class of non-commissioned officers ought to enjoy the benefits of the law, and what length of service as an enlisted man and non-commissioned officer ought to be required of such as may be admitted to its privileges, and what evidence of worthy and faithful service ought to suffice; and, lastly, what amount of pay and allowances should those retired be entitled to?

The first act providing for a retired-list, known to the committee, is the act approved August 3, 1861, entitled "An act providing for the better organization of the military establishment." (See U. S. Stats. at Large, vol. 12, p. 287.) Section 15 of that act reads as follows:

And be it further enacted, That any commissioned officer of the Army, or of the Marine Corps, who shall have served as such for forty consecutive years, may, upon his own application to the President of the United States, be placed upon the list of retired officers, with the pay and emoluments allowed by this act.

The privilege of going on the retired-list, authorized by that section, is limited to *commissioned officers* of the Army or of the Marine Corps. Length of service is the controlling principle in that section. Section 6 of the same act makes provision on the retired-list for commissioned officers of the Army or Marine Corps "who shall become, or shall hereafter become, incapable of performing the duties of his office." Nothing is said in the section as to how the incapacity was brought about. The simple *fact of incapability of* performing duty is all that is required.

The method of determining the fact of incapacity is provided in the act, but as the committee reports only on length of service it is not necessary to repeat here. It is further provided that there shall not be on the retired-list at any one time more than 7 per centum of the whole number of officers of the Army, as fixed by law.

Section 21 provides as follows:

And be it further enacted, That any officer of the Navy who has been forty years in the service of the United States may, upon his own application to the President of the United States, be placed upon the list of retired officers of the Navy, and shall receive the pay and emoluments allowed by this act.

Thus it will be seen that by the act of August 3, 1861, provision was made for the retirement, after forty years' service, of commissioned officers of the Army, of the Marine Corps, and of the Navy. The pay and emoluments of naval officers are provided by the twenty-second section of said act.

Section 16 of said act provides pay and emoluments of retired officers of the Army and Marine Corps, as follows: * * * "the pay proper of the highest rank held by him at the time of his retirement, whether by staff or regimental commission, and four rations per day, and without any other pay, emoluments, or allowances."

No provision was made for retirement of non-commissioned officers of the Army, Navy, or Marine Corps.

The act of July 15, 1870 (vol. 16, sec. 4, p. 317), authorizes the President, at his discretion, to place on the retired-list of the Army, on their own application, any commissioned officers who have been thirty years in the service, "upon the same pay and emoluments as are now allowed, or may be hereafter allowed, to officers retired from active service."

Section 5 of the act repeals so much of the act of August 3, 1861, as limits the number of officers on the retired-list "to seven per centum of the whole number of existing officers," leaving the number to be retired under existing laws to the discretion of the President, but provides, "that the whole number on the retired-list shall not exceed three hundred."

Section 12 of the act of July 17, 1862 (U. S. Stats. at Large, vol. 12, p. 596), is as follows:

And be it further enacted, That whenever the name of any officer of the Army or Marine Corps, now in the service, or who may hereafter be in the service, of the United States, shall have been borne on the Army Register or Naval Register, as the case may be, forty-five years, or he shall be of the age of sixty-two years, it shall be in the discretion of the President to retire him from active service, and direct his name to be entered on the retired-list of officers of the grade to which he belonged at the time of such retirement; and the President is hereby authorized to assign any officer retired under this section or the act of August third, eighteen hundred and sixty-one, to any appropriate duty; and such officer thus assigned shall receive the full pay and emoluments of his grade while so assigned and employed.

Section 24 of the act of July 15, 1870 (vol. 16, p. 320), established a different rule as to pay to that theretofore in force, and fixed the amount of pay of every officer in dollars, from the General of the Army to second lieutenant. Fuel, quarters, and forage in kind, however, were allowed under the act as, at its date, were allowed by law, and it was provided that "these sums," fixed as the pay of officers, "shall be in full of all commutation of quarters, fuel, forage, servants, wages, and clothing, longevity rations, and all allowances of every name and nature whatever"; and it then provided that "officers retired from active service shall receive 75 per centum of the pay of the rank upon which they are retired."

The substance of these provisions in respect to retirement of officers

ıay be found in sections 1243, 1244, and 1274, Revised Statutes, so far s pertinent to the matter now under consideration.

It will be seen that ample provision is made for the retirement of offi-ers on account of length of service.

No provision by law meets the case set forth in the resolution sub-nitted to the committee. It is not met, as the committee believe, by he provisions respecting the Soldiers' Home.

The committee, after most careful consideration of the subject sub-nitted, is of opinion that provision by law for a retired-list of non-ommissioned officers is not only just in itself, but that such a law would ıave a most salutary influence upon the Army:

1. It would remove the jealousy naturally arising from liberal provis-on for the worn-out commissioned officers, without any provision cor-esponding for the non-commissioned officers.

2. It would occasion the enlistment of good material for soldiers, in hat they would feel an assurance that, in case of faithful service, then ld age would be provided for.

3. It would elevate the *morale* of the Army by encouraging a spirit of mulation for non-commissioned rank.

4. It would encourage those promoted from the ranks to the places of on-commissioned officers to continue in well-doing.

5. The very fact that these men can look forward to the day when, no ›nger fit for active service, they can provide homes of their own, would, ı the opinion of the committee, not only content the men with the pri-ations of the soldier's life, but aid other causes in the race for non-com-ıissioned rank.

6. The view of the committee is that this retired-list should be a re-ard of merit, and hence extended only to those who prove meritorious, nd secure non-commissioned rank by honorable and soldierly conduct.

On the whole case the committee report favorably on the object of the esolution, and report the same back, accompanied by a bill, and recom-end that the bill do pass.

O

ɔONGRESS, } SENATE. { REPORT
Session. } { No. 284.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 18, 1880.—Ordered to be printed.

'RYOR, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1059.]

ɔmmittee on Claims, to whom was referred the bill (S. 1059) for the f of George D. C. Hibbs, having considered the same, submit the fol- ng report:

committee find, from the petition and letters attached thereto, that titioner, George D. C. Hibbs, about the 1st of November, 1851, at ry of $100 per annum, was appointed an assistant messenger in ce of the Commissioner of Pensions, which sum as a salary afore- e received until April 1, 1853, when his salary was increased to er annum, which last-mentioned sum he received until October, vhen his salary was still further increased to $840 per annum, hich last above mentioned sum of $840, as a salary, was paid ıtil August, 1856, when by a joint resolution of both houses of ɜss the salaries of assistant messengers were cut down to $700 per , which amount he received until July 6, 1859, when the petitioner ɔtified by the Secretary of the Department of the Interior that titioner's) service was dispensed with in consequence of a reduc- the clerical force. The committee find from the attached letter ents that while the petitioner held the position of messenger he l, in a high degree, clerical capacity; that he not only discharged ıties of messenger efficiently, but also those of clerk. That the ner, so needed were his services, and so completely did he dis- the duties, was assigned, by the chief clerk, to a desk as clerk, the ɔ assigned being filled at the time by only a third-class clerk, and ıideration thereof the chief clerk, knowing the necessity and value services, recommended that the petitioner's salary should be in- l $200 from 1st July, 1857. The attached letters show that the ner commenced performing the duties of a clerk, by the direction Commissioner of Pensions, through the chief clerk, in April, 1854. iew of the case thus presented, conceding, for the purpose of this ıtion, all to be true as stated in the petition and letters, they do ɜsent a case for relief by Congress.

Because if in law it shall be construed, taken, and held a con- r agreement which the Commissioner in person or through others nake, then the remedy would be elsewhere than Congress, and he Congress may be all, and greater than all, or either, and had ht and power to assert jurisdiction over all, yet it should not dis- interfere with its own instrumentalities for the investigation of ıatters. *Harmony and a* recognition of the departments and their

action should be preserved; the good of each and all requires it, unless in exceptional cases.

2d. Because the capabilities, the discharge of the additional duties in this case by the petitioner, were of that character to develop the petitioner and evidence his qualifications for promotion or higher position, and commend him to such compensation as such advance or superior position secure. But if the superior qualifications and fitness of the petitioner were not in the estimation of the chief clerk so demanded as to secure his retention as a clerk, the committee are admonished that it was neither so much needed or important as to induce them to allow any, much less compensation equal to the salary of a clerk at the rate of $1,600 per annum, from any point of time specified in the petition. To allow such claims, under such circumstances, would not only destroy the proper rule for determining the compensation of officers, but subject the government to be inroaded by the whims, preferences, prejudices, and frauds of its servants, and annul and transfer, by indirection, the power of Congress to regulate salaries and pay, and by degrees establish a precedent dangerous to the interest of the government.

We therefore report adversely to the petition and the bill, for any allowance whatever, as asked for therein, and recommend that they be indefinitely postponed.

O

ONGRESS, } SENATE. } REPORT
Session. } No. 285.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 18, 1880.—Ordered to be printed.

RGAN, from the Committee on Foreign Relations, submitted the following

REPORT:

[To accompany bill S. 850.]

ommittee on Foreign Relations, to whom was referred the bill 50) to provide a commission for the adjudication of damages to the egian bark Atlantic by collision with the United States steam sloop r Vandalia, and for payment of any award made by said commis- have had the same under consideration, and report:

the owners of the Norwegian bark Atlantic claim of the United compensation for injuries to their vessel, and for losses by her on in the port of Lisbon for repairs, under the following alleged f facts:

the bark Atlantic was upon the high seas, pursuing her voyage he port of Ozan, in Algeria, to the port of Leith, in Scotland, 31st of October, 1876, when she was hailed by the United States war sloop Vandalia, who sent out a boat to the Atlantic with a t for newspapers.

some delay occurred because the officer from the Vandalia and tain of the bark could not converse in the same language.

ng this delay the vessels collided, and it is claimed by the cap- the bark, in a public protest that he made on his arrival at Lis- at his vessel was wholly without fault.

Norwegian bark was so damaged by the collision that the Van- ound it necessary to tow her into Lisbon, Portugal, where she e repaired.

officer in command of the Vandalia claims that his ship was with- lt, and so reported to the Secretary of the Navy.

claim for compensation appears to be made in good faith, and is supported by evidence that it requires impartial examination.

King of Sweden and Norway has caused his minister to the l States to bring this subject to the attention of this government, ask that some action be had by Congress by which a mode of ng this dispute may be provided.

e is no provision of law by which the United States can be sued ts of admiralty, and ships of war are not subject to any proceed- *rem* by persons who may sustain damages by their negligent or er navigation.

Norwegian minister suggests in his correspondence with the Sec- of State *that his government* has provided by law so that suits

may be brought against it in its own courts in such cases by p
who have unjustly sustained damages. He presents this as an
tional ground for his request that Congress shall provide for a
ment of the claim of his countryman by impartial arbitration.

Your committee agree that this request is reasonable and p
and report back the bill referred to them with a substitute therefo
recommend its adoption.

O

6TH CONGRESS, 2d Session. } SENATE. { REPORT No. 286.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 18, 1880.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 476.]

he Committee on Claims, to whom was referred the (bill S. 476) for the relief of Thomas M. Simmons, with the accompanying papers, having carefully examined the same, submit the following report:

The evidence submitted establishes that the claimant, Simmons, was ie owner of five-twelfth parts of the Alabama Press-Yard No. 2 and of ie one-half part of the Crescent City Press, situate in New Orleans, La., om 1861 to 1866, and that John P. Moore was the owner of the other terests; and that the Alabama Press-Yard No. 2 was used and occu-ed by the United States troops from February 26, 1863, to May 31, 865, twenty-seven months and eight days, and that the rental value ıring this term was $204.74⅓ per month, amounting to $5,582.97, and ıat the Crescent City Press was so used and occupied by the United tates troops from January 21, 1863, to May 31, 1865, twenty-eight onths and nine days, and that the rental value was $7,337.17, being 259.26⅔ per month.

Your committee addressed a letter of inquiry to the Secretary of the reasury, which was referred to the Secretary of War, who made a full port to your committee, and furnished all the orders and papers in his partment in relation to this claim and the claim of said Moore. Under ite January 19, 1864, Maj. Gen. N. P. Banks, commanding at New Or-ans, La., issued Special Orders No. 16, as follows, to wit:

[Special Orders No. 16.]

HEADQUARTERS DEPARTMENT OF THE GULF,
New Orleans, January 19, 1864.

* * * * * * *

29. It appearing to these headquarters that there is great difficulty in providing arters for troops on their arrival here, that abuses detrimental to the public service d the rights of neutrals and citizens accrue from the present mode of occupying cot-n-presses and other valuable property by detachments of troops, many of whom re-ire instant repose and shelter, the following-named officers are hereby appointed a litary commission and board of administration: Brig. Gen. Richard Arnold, chief of illery; Lieut. Col. W. S. Abert, assistant inspector-general; Capt. C. B. Chittenden, sistant quartermaster.

The duties of this board shall be, after careful considerations of military necessities d the economy of military administration and the rights of citizens and neutrals, determine, subject to the approval of these headquarters—

1st. What property in the city of New Orleans and Algiers shall be exempt from litary occupation, and what shall be taken for barracks, stables, and storehouses.

2d. The proper enrollment of the buildings selected, with the order of succession for their occupation as they may from time to time be required, and with a view to the least private annoyance consistent with public interests.

3d. The fixed rent to be paid during occupation by the government. * * *

GEO. B. DRAKE,
Assistant Adjutant-General.

It will be observed that this order is dated more than one year after the United States had taken possession of said premises.

Under date March 7, 1865, the following order was duly issued, to wit:

[Special Orders No. 63.—Extract.]

HEADQUARTERS DEPARTMENT OF THE GULF,
New Orleans, March 7, 1865.

* * * * * * *

10. Brig. Gen. M. Brayman and Lieut. Col. J. G. Chandler are appointed a commission to examine into the validity of all claims against the United States which may be referred to them from these headquarters, or by Col. S. B. Holabird, chief quartermaster of the department.

They will keep full records of their proceedings, and will be authorized to summon witnesses and take testimony under oath from persons in or out of the service whose testimony may be material.

Office-room and fixtures, stationery, and the necessary clerks will be furnished by the chief quartermaster of the department. Weekly reports of business done will be made to these headquarters.

By command of Major-General Hurlbut:

J. C. STONE,
Captain and Assistant Adjutant-General.

The board of administration appointed January 19, 1864, as above, reported May 27, 1864, the occupation of the premises, and estimated the rental value at $400 per month.

The claims commissioners appointed by said Order No. 63, March 7, 1865, made a full report, and found the ownership of the premises in Moore and Simmons, and the occupation and use of the premises for the terms and the monthly rental values as first stated in this report. Their report was dated June 7, 1865.

On July 19, 1865, their report was approved by order of General Canby, and the chief quartermaster was ordered to settle the claim of Moore upon the claimant's furnishing evidence of having taken the amnesty oath.

The claimant Moore was paid the rent for his interest in November, 1865, amounting to $6,925.31. The present claimant, Simmons, was not paid, because his evidence of his loyalty was deemed unsatisfactory.

The proceedings had in the matter of the application for payment of rent were as follows: John P. Moore, on the 22d day of February, 1864, addressed a written communication to Capt. C. B. Chittenden, as recorder of said military commission and board of administration, in which communication Moore alleges that *he* is the owner of the said Crescent City Cotton Press and Alabama Yard No. 2, and he prays that said board will take the matter under consideration and award *him* a fair compensation for the use of said premises. This was the first claim made for rent. Moore resided in New Orleans while that city was occupied by the Confederates. He was there when the city was captured by the United States troops, and remained there continuously until after this application for payment of rent was made. He took the amnesty oath and claimed to have been at all times loyal. He established his loyalty to the satisfaction of the United States military authorities.

The claimant Simmons, prior to about April, 1862, was a resident of New Orleans and a business partner of Moore.

In April, 1862, or about that time, Simmons left New Orleans and went rough Texas to Matamoras, in Mexico, where he continued to reside nd carry on business until the first of June, 1865, the war then being ractically over, when he returned to New Orleans.

The commission to which Moore's said petition asking for payment of ent was referred, made a report thereon dated June 7, 1865. The following are extracts from said report, viz:

"The claim commission designated by Special Order No. 63, Headquarters Department of the Gulf, having considered the claim of John P. Moore, heretofore referred, respectfully report:

"It appears that the firm of Moore and Simmons own the property in the city of New Orleans, La., known as the Crescent City Press and Alabama Yard No. 2. * * *

"Satisfactory evidence is furnished of the loyalty of Moore. It appears that Simmons is and has been for some time a resident of Matamoras, Mexico, and engaged in business there."

The following indorsement appears on the back of this report, viz:

Respectfully referred to the chief quartermaster. The report of the claim commission is approved, and this claim will be settled upon the claimant furnishing evidence that he has taken the amnesty oath in manner required by General Orders 109, current series headquarters department of the gulf.

By order of Maj. Gen. E. R. S. Canby.

G. W. LYON,
Lt. A. A. A. G.

Dated July 19, 1865.

It will be observed that this indorsement refers to one claimant only; that is to John P. Moore.

Mr. Simmons made no application for the payment of any portion of the rent for the premises until November 30, 1865. He, on or about the day last aforesaid, presented to the proper military officer various affidavits and a petition praying for the payment of a portion of said rent to him.

The following indorsement appears upon said papers, viz:

The citizen who absents himself from his country during a period of war is, by the laws of nations, a deserter from the duties and obligations of that citizenship. The burden of proof rests on him, and he must account for his absence and his occupation during that absence before his claim can be determined.

ED. R. S. CANBY, *M. G. C.*

Subsequent to the date of this indorsement, and prior to June 12, 1866, Mr. Simmons submitted various affidavits to the proper military officer, tending to prove his loyalty and to account for his absence from the country during the war, and tending also to show what his occupation was during such absence.

After considering all the evidence, on the 12th of June, 1866, General Canby addressed the following communication to Mr. Simmons's attorney:

The general commanding the department directs me to inform you that the evidence of Mr. Simmons's occupations during his residence in Matamoras, and the reasons for his leaving and going to Matamoras, are so unsatisfactory that he can take no further action in the matter.

Very respectfully, your obedient servant,

LOUIS V. CAZIARC,
Brevet Captain and Aide-de-Camp.

The only additional evidence furnished by the claimant is the following: In June, 1876, he makes an affidavit that he left New Orleans be-

cause he could not support his family in that city while occupied by the Confederates; that he engaged in business in Matamoras, but had no business relation with any one in the rebel service, and that he was always loyal to the Government of the United States.

There is nothing new in this affidavit. He had sworn to the same facts substantially in the affidavits submitted to General Canby.

A man named Brown makes an affidavit that he has known Simmons for thirty years, and that he *believes* the matters stated in his (Simmons's) affidavit are true. Brown does not claim to have any personal knowledge of the matters set forth in Simmons's affidavit.

A man named Husted swears that he knows Simmons (he does not state how long he has known him), and that he believes that Simmons was loyal to the Government, Constitution, and Union of the United States during the late civil war.

There was no contract in this case on the part of the United States to pay rent.

Moore, one of the joint owners, established his loyalty and was paid.

There are various suspicious circumstances in connection with Simmons.

He left the United States early in the war; went to Matamoras, which is on the west bank of the Rio Grande, and remained there in business until the war was practically closed.

There is reason to believe that he was engaged in importing into the Confederate States, through Mexico, property and supplies contraband of war, which he could not import directly on account of the blockade.

Moore at first claimed the whole rent. This would indicate that he believed he was able to prove his own loyalty, but that Simmons's loyalty could not be shown.

General Canby, after seeing Simmons and examining all the evidence then submitted, was not satisfied of claimant's loyalty.

The additional evidence of loyalty submitted by claimant is, as we have shown, very slight. The committee is not satisfied that claimant was loyal.

We recommend the disallowance of the claim on two grounds: First, that loyalty is not shown; second, that there was no contract on the part of the United States to pay rent.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 287.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 18, 1880.—Ordered to be printed.

Mr. HEREFORD, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of Arthur Connell, report as follows:

The petition shows that Arthur Connell is now a resident of the State of Texas; that in the years 1862, 1863, 1864, and 1865 he was a resident of the State of Tennessee, at which time he was the owner of a three-story house and lot, situated in the city of Memphis, in said State; that said property was taken from him by the Federal forces during the late war; that the government received, during the years 1862, 1863, 1864, and 1865, rent for said property, amounting to $2,400; that the receipts accompanying the papers from G. W. Vaughn, rental agent of the government, show these facts.

The State of Tennessee was a State in rebellion, and there is no evidence in the case to show that the petitioner himself was loyal. The committee, therefore, recommend that the prayer of the petitioner be denied.

O

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 19, 1880.—Ordered to be printed.

RRY, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill S. 16.]

mmittee on Post-Offices and Post-Roads, to whom was referred the S. 16) for the relief of Albert Towle, having had the same under con-ation, submit the following report:

the bill is, in substance, the same as those which passed the on the 20th of April, 1876 (S. 727 of the 1st session 44th Con-and on the 1st of December, 1877 (S. No. 53 of the 1st session 45th ss), and which were not acted upon by the House during either e Congresses.

port from the Committee on Post-Offices and Post-Roads (No. 3 1st session 45th Congress) accompanied the bill on its passage h the Senate.

bill having thus twice passed the Senate, and without opposing your committee adopt the views embraced in the report above d to, which is hereto appended, and recommend the passage of ompanying bill.

[Senate Rep. No. 3. Forty-fifth Cong., 1st sess.]

addock, from the Committee on Post-Offices and Post-Roads, submitted the g report (to accompany bill S. 53):

n the night of the 25th of October, A. D. 1869, the post-office building at Beatrice, as entered by burglars, and United States postage-stamps to the amount of l other property were stolen therefrom. These facts are stated in the memorial rt Towle, the postmaster. The affidavits of five prominent business men of verify the sworn statement of Postmaster Towle. It appears from the papers utmost diligence, faithfulness, and care had been exercised in the administra-he affairs of the office; that the said post-office was kept in a new and sub-ly-constructed building, used exclusively for such purpose; that the doors curely locked and the windows carefully fastened; that the postage-stamps posited in the drawer of a table, which was locked. It being a small office, as no safe. It further appears that one of the windows of the office was en-oken out in the night-time, the drawer of the table forced open, the postage-taken therefrom, and other property of much greater value stolen from other the office by the burglars. It also appears that prompt and most thorough ere made by the petitioner for the recovery of the property and the appre-and punishment of the thieves. A communication from the Post-Office De-t, showing that Postmaster Towle had at the time of the robbery a somewhat mount of stamps in his possession than that named in his memorial, accom-his *report. A petition, signed* by all the prominent citizens within the post-

office delivery, indorsing the high character of the petitioner as a man an officer, is also one of the papers accompanying this report. He is still the p and has had the longest continuous service of any officer in the State of Neb

In view of all the facts in the case, the committee unanimously recomn Albert Towle, postmaster at Beatrice, Nebr., be reimbursed for the loss of stamps to the amount of $175, and, to secure that result, present the accon bill with the recommendation that it do pass.

The same action was taken by this committee during the last session of t fourth Congress, and a similar bill was passed, without objection, by the Se

C

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 289.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 19, 1880.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 259.]

The Committee on Claims, to whom was referred the bill (S. 259) entitled "A bill for the relief of Reuben H. Plass," have considered the same, and submit the following report thereon:

The bill directs the Secretary of the Treasury to pay $54,828.50 to Reuben H. Plass, successor to the firm of Carpenter & Plass, in full compensation for work and labor done, material furnished, and money expended under contracts with the Navy Department, by said firm of Carpenter & Plass, for 50-pounder rifled guns, and for finishing certain gun-blocks into 7½-inch guns, in the years 1861 and 1862.

Your committee referred said bill to the Secretary of the Navy for information. On the 16th of February, 1880, the Secretary returned said bill accompanied by the following communication from the Chief of the Bureau of Ordnance, that is to say:

BUREAU OF ORDNANCE, NAVY DEPARTMENT,
Washington City, February 16, 1880.

SIR: In reference to Senate bill No. 259 for the relief of Reuben H. Plass, successor to the firm of Carpenter & Plass, proposing to pay him $54,828.50 for work and material expended under contracts with the Navy Department, for 50-pounder rifled guns, and for finishing certain gun-blocks into 7½-inch guns, in the years 1861 and 1862, submitted from Senate Committee on Claims for report:

This bureau never had any contract with or gave any orders to the parties named for work on guns.

An agreement of the nature referred to was entered into with Mr. Norman Wiard about the time named, and Messrs. Carpenter & Plass were employed by him to execute the work for which he had contracted. The 50-pounders utterly failed in proof to meet the requirements of service, and during the progress of the work an attempt was made to conceal a gross and fatal error in dimensions, by the insertion of a false chamber in one of the guns, which deception was discovered on the bursting of the gun at the ninth round.

Mr. Wiard was paid in full, in accordance with the agreement, entered into with him.

The accompanying pamphlet contains copies of all the correspondence on the files of the bureau bearing in any manner upon the case—pp. 11 to 69—and at the end will be found an account of the amounts paid for the execution of the work in question, including full compensation for the 7½-inch guns, and for the 50-pounder trial gun.

The bill is herewith returned as requested.

I am, sir, your obedient servant,

WILLIAM N. JEFFERS,
Commodore U. S. N., Chief of Bureau.

Hon. R. W. THOMPSON,
Secretary of the Navy.

It appears from this statement that the Navy Department ne\ any contract with or gave any orders to Carpenter & Plass fc or guns. A contract of the nature referred to was entered into Navy Department with Norman Wiard, and Carpenter & Plas employed by him, as subcontractors, to execute the work for wl had contracted. Wiard was paid in full, in accordance with the ments entered into with him.

The United States never owed Carpenter & Plass any sun ever. We have nothing to do with the state of the accounts b Carpenter & Plass and Wiard.

We recommend that the further consideration of the bill be nitely postponed and the committee discharged.

O

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 19, 1880.—Ordered to be printed.

GROOME, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill S. 1346.]

Committee on Post-Offices and Post-Roads, to whom were referred the o bills S. 285 and S. 689, each entitled "A bill for the relief of Charles llins," have had the same under consideration, and report:

ıe claimant was on the 23d of November, 1877, and still is postmas of Berlin, Worcester County, Maryland. On the night of that day store-house of the claimant, in which the post-office was kept, and h he had securely locked, was burglariously entered through a sec- story window which was forced open by a "jimmy."

ıe burglars proceeded downstairs and forced open a bolted door at foot of the stairway, and thus obtained access to the room used as ore and post-office.

ıey robbed the post-office of stamps to the amount of $337.36, and ed the store of money and goods to a considerable amount.

ıe postmaster and his assistant both swear that the post-office was glariously entered and robbed, at the time and in the manner already ed, and without any negligence on the part of either of them.

isinterested residents of the town under oath fully corroborate them o the fact and manner of the entry and robbery of the post-office, further swear that the postmaster and his assistant are men of ex- ent character, and that they do not believe the robbery occurred in equence of negligence on the part of either. The postmaster and ssistant further explain, under oath, that the postmaster always t the money received for stamps, postal cards, &c., entirely separate ı his individual money, so that on any day of the year they could tell amount of post-office funds and stamps on hand, and that conse- ıtly they were able to ascertain readily and accurately that the ıps of which he was robbed were of the value of $337.36.

our committee applied to the Post-Office Department to ascertain probable amount of stamps in the possession of the postmaster un- at the time of said robbery, and were informed that the amount in hands at the time would seem from an estimate made in the Office of Postmaster-General to be about $340. The Post-Office Department at once notified of the robbery and of all its details, which could be rtained. An investigation into the circumstances was made by one s special agents, who made a thorough examination of the premises into the circumstances, and reported that his "examination of the e and places *broken open* by the robbers shows conclusively that

every precaution was taken by the postmaster to make the office secur and that nothing more could have been done."

He further reported "that the postmaster is a respectable, hones citizen and faithful officer, and stands equal in every particular with an citizen in the county."

A large number of the residents of the town of Berlin also certify t the fact of the loss, as above stated, and that it occurred from no wan of diligence or care on the part of the postmaster and join in the reques that Congress may grant him the relief to which they feel satisfied h is properly and eminently entitled, and which they declare they fe assured will meet with the entire approbation of their whole community

The committee are clearly of the opinion that the claimant i entitled to the relief he seeks, but as both the bills referred to them ar defective, they report a new bill as a substitute for those referred t them, and recommend its passage.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 291.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1880.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1031.]

The Committee on Military Affairs, to whom was referred the bill (S. 1031) for the relief of Edward T. Benton, respectfully submits the following report:

It appears from the military history of Edward T. Benton, furnished from the Adjutant-General's Office; that he was appointed second lieutenant First Cavalry, February 16, 1862; promoted first lieutenant July 17, 1862; joined his regiment March 24, 1862; served in Army of Potomac to May 4, 1862, when he was wounded at battle of Williamsburg, Va.; was absent sick, and on sick leave to August 7, 1862; on recruiting service to January 18, 1863, at Indianapolis and at Carlisle Barracks, to February 6, 1863; with his regiment in Army of Potomac to June 27, 1863; absent sick to August, 1863, and with regiment in the Army of the Potomac till he tendered his resignation, November 6, 1863, in these words: "I have the honor to tender my immediate and unconditional resignation as first lieutenant in the First Regiment, United States Cavalry." This was approved and forwarded the same day by Capt. M. A. Reno, who also appears to have been commanding the regiment. It was on the 12th of November, 1863, forwarded with recommendation that the resignation be accepted, by Brig. Gen. W. Merritt, commanding brigade, and on the same day forwarded by Brig. Gen. John Buford, commanding division, with like recommendation, and on the next day approved and forwarded by Maj. Gen. A. Pleasonton, commanding cavalry corps, and approved and forwarded November 14, 1863, by Maj. Gen. George G. Meade, commanding Army of Potomac, to the Adjutant-General, and accepted, as it would appear from the military history of Mr. Benton, April 2, 1864.

The committee perceives no good reason for undoing this work. Mr. Benton claims that he is still suffering from his wound. If such be the fact, of which the committee has no reason to doubt, the appropriate remedy is not through recommendation of this committee.

Wherefore the committee reports Senate bill 1031 back adversely and recommends its indefinite postponement.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 292.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1880.—Ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1087.]

The Committee on Military Affairs, to whom was referred the bill (S. 1087) for the relief of John F. Clancey, have had the same under consideration, and beg leave to submit the following report:

The bill, as introduced, proposes to authorize the President of the United States to review the proceedings of the general court-martial convened by General Orders No. 11, from headquarters First Division, Eleventh Corps, Army of the Potomac, May 31, 1863, and by which John F. Clancey, first lieutenant Company E, Seventeenth Regiment Connecticut Volunteer Infantry, was tried, and to annul and set aside the findings and sentence of said court-martial, approved by Major-General Hooker, commanding Army of the Potomac, in General Orders No. 61, paragraph 1, dated June 11, 1863, if after such review he shall deem it right and proper so to do.

No evidence whatever of any character accompanied the bill, and your committee, therefore, with a view to giving this case a fair and impartial consideration, referred the bill to the Secretary of War, requesting him to furnish the committee with all information on file in his department concerning it, and received through him the following letter from the Adjutant-General of the Army:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., January 29, 1879.

To the Hon. the SECRETARY OF WAR:

SIR: I have the honor to return herewith your letter of the 27th instant, in which you request, for the information of the military committee of the Senate, to be furnished with the facts connected with the dismissal of Lieut. John F. Clancey, Seventeenth Connecticut Volunteers; and, in answer thereto, report as follows:

First Lieut. John F. Clancey was granted thirty days' leave of absence January 29, 1863, but, on its expiration, failed to join his command. March 31, 1863, he was reported to Lieut. Watson Webb, Third United States Artillery, chief mustering and disbursing officer of Connecticut, as being absent without leave. Lieutenant Webb, on April 2, 1863, ordered him (in writing) to immediately join his regiment, or be considered a deserter; Lieutenant Clancey received that order April 4, 1863, but appears to have disregarded its instructions. He was accordingly arrested by Lieutenant Webb, and, by him, brought to New York City and turned over to Major-General Wool, commanding the Department of the East. That officer sent him, in arrest, to his regiment, which he reached April 11, 1863. He was thereupon placed in arrest by his regimental commander, and subsequently tried by a general court-martial on the following charges:

1. Absence without leave.

2. Disobedience of orders.
3. Conduct prejudicial to good order and military discipline.
4. Desertion.

He was found guilty of all the charges except the fourth, and sentenced to be dismissed the service of the United States, with forfeiture of all pay and allowances, by General Orders No. 61, June 11, 1863, from the Army of the Potomac, official copy herewith.

The proceedings of the court are on file in the office of the Judge-Advocate General of the Army.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

[GENERAL ORDERS, No. 61.]

HEADQUARTERS ARMY OF THE POTOMAC,
Camp near Falmouth, Va., June 11, 1863.

I. Before a general court-martial, of which Brig. Gen. A. Ames is president, convened at headquarters Second Brigade, First Division, Eleventh Corps, by virtue of General Orders No. 11, from headquarters First Division Eleventh Corps, of May 31, 1863, was arraigned and tried—

First Lieutenant *John F. Clancey*, Company E, Seventeenth Connecticut Volunteers, upon the following charges:

CHARGE 1st—*Absence without leave.*
CHARGE 2d—*Disobedience of orders.*
CHARGE 3d—*Conduct prejudicial to good order and military discipline.*
CHARGE 4th—*Desertion.*

Finding—Of the 1st charge—*Guilty.*
Of the 2d charge—*Guilty.*
Of the 3d charge—*Guilty.*
Of the 4th charge—*Not guilty.*

Sentence—"*To be dismissed the service of the United States, with forfeiture of all pay and allowances that are due or may become due.*"

* * * * * * *

II. The proceedings of the general courts-martial in the foregoing cases having been transmitted to the major-general commanding, the following are the orders thereon:

The proceedings, findings, and sentences in the cases of First Lieutenant *John F. Clancey*, Seventeenth Connecticut Volunteers, and Colonel *A. J. Morrison*, Twenty-sixth New Jersey Volunteers, are approved. These officers accordingly cease to belong to the military service of the United States from this date.

* * * * * * *

By command of Major-General Hooker:

S. WILLIAMS,
Assistant Adjutant-General.

The foregoing facts remain wholly and absolutely uncontradicted, and there seems to be, in the opinion of your committee, no valid reasons for annulling and setting aside the findings and sentence of the court-martial before which Mr. Clancey was legally tried. On the contrary, there is every reason to believe that the trial was fair and impartial and that the sentence was fully merited by the unsoldierly conduct of this person. Obedience is one of the first and the most important of all duties of a true and patriotic soldier, and the failure to obey the command of a superior officer is "prejudicial to good order and military discipline" and is oftentimes fraught with the most disastrous consequences.

Your committee, therefore, report adversely upon this bill, ask to be relieved from its further consideration, and recommend that it be indefinitely postponed.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 293.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1880.—Ordered to be printed.

Mr. LOGAN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 710.]

Your committee having under consideration the bill (S. 710) for the relief of Henry P. Seymour, W. A. Frazer, Alvan N. Sabin, and the heirs of Percy S. Leggett, late supernumerary second lieutenants of Fifth Michigan Cavalry, find that these officers were mustered and paid all to which they were entitled under act of Congress approved March 3, 1863. Therefore your committee would respectfully ask to be discharged from a further consideration of this bill and that the same be indefinitely postponed.

O

ONGRESS, } SENATE. { REPORT
Session. } { No. 294.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1880.—Ordered to be printed.

AMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 853.]

mmittee on Military Affairs, to whom was referred the bill (S. 853) ly members of certain military organizations therein named, have had same under consideration, and beg leave to submit the following re- :

bill as referred to the committee provides as follows:

the military organization known as the East Tennessee National Home Guards, ng of three companies, commanded by Captains B. F. Tipton, Samuel W. Ren- d Daniel Kelly, having been called into the service of the United States in r eighteen hundred and sixty-three, in the Department of the Ohio, under au- of Major General A. E. Burnside, commanding said department, be, and they by, placed on the same footing, as to pay and allowances, as volunteers in the of the United States.

second section provides—

it shall be the duty of the proper accounting officers of the Treasury Depart- adjust the accounts of all members of the above-described organizations; and entation of properly authenticated rolls showing the names of all officers and longing to such organizations, and the term of service of each, and of such vidence as may be required to fully prove such service, the said accounting offi- ll pay the accounts out of any money in the Treasury not otherwise appropri- *rovided, however,* That this act shall not be so construed as to entitle the s of said military organizations to bounty under any law of the United States.

only paper presented in connection with this bill is a petition by the attorney of the three companies, cited in the bill, praying ess to grant them relief for services alleged to have been rendered m.

vidence of any kind, character, or description was submitted by rties interested in support of the bill, and the committee were, ore, compelled to resort to the files of the War Department for ation regarding the case, so as to form an intelligent opinion of me; and even the information thus furnished is extremely meager not at all of such a nature as to satisfy your committee that the ght to become a law.

Adjutant-General reports that the returns of the Army of the in which it is claimed the companies mentioned in the above re- bill served, make no mention whatever of this force; that *the nies were simply home guards, and as such furnished with arms and nition to defend themselves whenever occasion required*; that on 15, 1878, *certain rolls* purporting to contain the names and the

military record of the officers and members of Captain Tipton's, Ca tain Rendle's, and Captain Kelly's companies of East Tennessee nation home guards were received by him, and were forwarded to his office b the attorney of the claimants, Mr. A. J. Johnson. The Adjutant-Ge eral suggests that, as these rolls were not made out until more tha fourteen years from the period it is claimed the companies were in th service, the rolls be established as correct before final legislation is ha by Congress on this bill. Such action would, in the judgment of th committee, not only be a very unwise thing to do, but it would be most dangerous proceeding to say the least of it, and it would u doubtedly open the door widely to fraud. That there is a possibilit (although the committee do not charge that such will actually be th fact) that such would likely be the case were Congress to establish th correctness of the muster-rolls of these companies, thus furnished e *parte* at this late day, your committee have but to refer to the followin laws already on the statute books:

AN ACT providing for the payment of Captain Goldman Bryson's mounted company.

Be it enacted by the Senate and House of Representatives of the United States of Amer in Congress assembled, That the company of mounted volunteers raised and command by Captain Goldman Bryson, of Cherokee County, State of North Carolina, under a thority of Major General Rosecrans, and received into the service of the United Stat by Major General Burnside, September twenty-ninth, eighteen hundred and sixty-thre and such men as were accepted into the service of the United States by the said Ca tain Goldman Bryson within one month thereafter, and the widows, heirs, and leg representatives of the officers and enlisted men, shall be entitled to pay, bounty, pe sion, and allowances according to their grade and time of service as other volunte in the service of the United States, notwithstanding any informality in their must or enlistment into the service of the United States, under such rules and regulatio as may be adopted by the proper accounting officer of the treasury.

Approved, March 1, 1869.

AN ACT for the relief of Captain David Beaty's company of independent scouts.

Whereas David Beaty, of Fentress County, Tennessee, did, on the twenty-fifth d of January, eighteen hundred and sixty-two, organize a company of independe scouts, numbering one hundred and two men, including himself as captain, and b first and second lieutenants; and whereas said company was on continuous duty e gaged in the work of suppressing the rebellion from the date of its organization un the first day of June, eighteen hundred and sixty-five, serving under the orders of t commander of the army in Tennessee; and whereas said company was never legal mustered into the service of the United States by any properly authorized musteri officer, and neither officers nor privates of said company have ever received any co pensation for said services from the government of the United States: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of Ameri in Congress assembled, That the organization set forth in the foregoing preamble be, a the same is hereby, recognized as a part of the military force of the United States e gaged in suppressing the recent rebellion, and the members thereof, on making pro of actual service, are declared to be entitled to the same pay, pensions, as though the had been regularly mustered into the service of the United States as cavalry: *Provide* That there shall be filed in the War Department a roll of said company, which sh be sworn to by the captain and two lieutenants of said company: *And provided furth* That each soldier, upon applying for payment under this act, shall be required make oath as to the length of his service in said company.

Approved, July 14, 1870.

As will be obs erved the above-named companies were recognized b Congress, and in accordance with these acts payments were made o rolls which have since been established as fradulent. *The rolls of tho two companies, made out several years after the war, contained two hundr and fifty-two names, purporting to be the names of the officers and enlist men of those companies. Of this number fifteen were names of fictitio persons; sixty-seven* were names of persons who *were not members of t*

companies; and forty-two names represented persons who had been members of Kentucky and Tennessee Volunteers at the time it is claimed they were members of the home guards.

Your committee are of the opinion and firmly believe that claims of this character are extremely dangerous, particularly when the length of time is considered that has elapsed since the period of the alleged military service, and they ought to be carefully and closely scrutinized with a watchful eye before they are acted upon by Congress.

Your committee, therefore, feel disinclined to recommend the passage of this bill, ask to be discharged from its further consideration, and recommend that it be indefinitely postponed.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 295.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1880.—Ordered to be printed.

Mr. FERRY, from the Committee on Finance, submitted the following

REPORT:

[To accompany bill H. R. 2649.]

The Committee on Finance, to whom was referred the bill (H. R. 2649) to authorize the Comptroller of the Currency to issue $500 in new notes to the National Bank at Pontiac, Ill., to replace a like amount which have never been signed, having duly considered the same, submit the following report:

That no report accompanied the passage of said bill by the House of Representatives.

That the facts in this case appear to be as follows:

On the 19th of November, 1878, there was stolen from the National Bank of Pontiac, Ill., one hundred five-dollar notes of said bank which had been received from the Comptroller of the Currency and were awaiting the signature of the proper officers of the bank previous to their issue for circulation.

The theft was accomplished while the cashier was engaged in conversation by a stranger in the front part of the bank, and a confederate unlocking a back door and rifling the bank vaults of the unsigned notes.

The affidavits of the cashier and president of the bank furnish no evidence that other notes or valuables were lost at the same time, or that the thieves were found and arrested.

Your committee has received the following letter from the Secretary of the Treasury in response to a request for the official data in the case and his views as to the question of affording legislative relief:

TREASURY DEPARTMENT,
February 18, 1880.

SIR: I have the honor to acknowledge the receipt of your letter of the 11th instant inclosing copy of H. R. 2649, being a bill "to authorize the Comptroller of the Currency to issue $500 in new notes to the National Bank at Pontiac, Ill., to replace a like amount which have never been signed," with affidavit of Ogden P. Bourland, cashier, on which the petition for relief in this matter is based, and asking that the statements made in the affidavit be verified from the records of the department, and for an expression of my views as to the merits of the case, and whether the relief proposed may properly and safely be granted.

In reply I inclose herewith copy of report, dated 17th instant, from the Comptroller of the Currency, on the statement of facts in this case, and return the affidavit of Mr. Bourland as requested. As these notes were lost by the carelessness of the bank, and were in such a condition that the forgery of two signatures made them complete, it would seem that relief ought not to be granted, but that the notes stolen should be treated as if they had been completed and the loss fall upon the bank. There is no precedent for the relief sought for, and it would be a very dangerous one to establish.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. T. W. FERRY,
United States Senate.

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE CURRENCY,
Washington, February 17, 1880.

SIR: I have the honor to acknowledge the receipt of a letter from Hon. T. W. Ferry, of the 11th instant, inclosing a bill (H. R. 2649) "to authorize the Comptroller of the Currency to issue $500 in new notes to the National Bank at Pontiac, Ill., to replace a like amount which have never been signed," and also an affidavit of Ogden P. Bourland, cashier of the bank.

These papers are referred to me by you, with the request that I will report to you such facts in reference thereto as may be in possession of this office.

On the 14th of November, 1878, a package of unsigned national-bank notes of the National Bank of Pontiac, Ill., was transmitted to that bank by express. The package contained twenty-five sheets, or impressions, of four notes on each sheet, the bank numbers of which were 741 to 765, Treasury numbers 252,111 to 252,135, both inclusive.

The receipt of these notes was duly acknowledged by the bank. A letter was subsequently received from the cashier of the bank, dated November 25, 1878, which stated that this package of unsigned notes had been stolen. Since that date I am informed that five of these notes have, with forged signatures, been presented to the National Bank Redemption Agency for payment, and have been returned to the parties from whom they were received, after having been stamped with the letter "S" in various places, as "stolen" notes. One of these notes is the note affixed to the affidavit of the cashier of the bank.

The only sections of law which seem to have reference to the subject-matter of the bill are as follows:

Section 5172 of the Revised Statutes provides that national-bank notes shall "express upon their face the promise of the association receiving the same to pay on demand, attested by the signature of the president or vice-president and cashier;" and section 5182 provides that "after any association receiving circulating notes under this title has caused its promise to pay such notes on demand to be signed by the president or vice-president and cashier thereof, in such manner as to make them obligatory promissory notes, payable on demand at its place of business, such association may issue and circulate the same as money."

The letter of Senator Ferry and the accompanying papers are herewith returned as requested by you.

I am, very respectfully,

JNO. JAY KNOX,
Comptroller.

Hon. JOHN SHERMAN,
Secretary of the Treasury.

After careful consideration of all the facts, your committee are of the opinion that due care and diligence were not exercised in guarding the treasure of the bank, or said robbery could not have been made by strangers during the office-hours of the bank; and further, that it is not for the public interest that a precedent should be established of reimbursement to national banks for the loss of unsigned notes, the absolute destruction of which cannot be proved.

In this and similar cases where the signatures of national-bank notes have been forged the general public who accept said notes as part of the circulation cannot be supposed to have any sufficient notice of such forgery.

There seems to be no good reason why such forged and stolen bills should be placed in a different category from stolen coupon bonds of the government, which, in the hands of innocent holders, are good, and for the loss of which the government refuses to reimburse the loser.

To pay losses such as claimed, and especially as in this case, without conviction on competent evidence of the alleged thieves, would establish a dangerous precedent, as it would be impracticable to definitely ascertain whether such unsigned notes were lost by carelessness, by collusion, or by theft.

Your committee, therefore, report adversely, and that the bill be indefinitely postponed.

O

6TH CONGRESS, 2d Session. } SENATE. { REPORT No. 296.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1880.—Ordered to be printed.

[r. ROLLINS, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill S. 1125.]

'he Committee on the District of Columbia, to whom was referred the bill (S. 1125) to provide for building a market-house on square 446, in the city of Washington, District of Columbia, report:

The square named in this bill was purchased by the District of Colum-ia under an act of the legislative assembly approved June 19, 1872, for ıe purpose of a market. In payment for the square, the District issued s bond for $100,000, payable in twenty years with interest at 7 per cent. er annum, which is still outstanding. The Commissioners of the District ı their report for 1875 call attention to this "valuable property" "origi-ally purchased for market purposes, but which they are of opinion ›uld be more advantageously used for the public interests in aid of the ublic schools." In addition to the purchase-money they say "cash xpenditures to the amount of $31,881.64 have been made on the remises, making the total consideration and outlay $131,881.64." This ısh expenditure is presumed to have been mainly for the temporary ıeds authorized to be erected by act of the legislative assembly of 1872. ince that report, judgment has been obtained upon a claim of the ›ntractor for an additional amount stated to be $7,000. The Commis-oners recommend that authority be given to sell the property.

In 1878 the school trustees ask that authority be given to the Commis-oners to appropriate to school purposes the ground in square 446, and ıy that the District owns no school building for white schools in this ıction, but were then renting twenty-five school-rooms to accommodate ıe same; and this request is indorsed by the Commissioners in their re-›rt for that year (report for 1878, pp. 13 and 213).

In their report for 1879 the school trustees again call attention to e need for additional school buildings in this division, and in reference this the Commissioners in their report say:

We feel that our duty would not be discharged if we did not again call attention to e great need for additional school buildings, and to the entire inadequacy of the ans at our disposal to supply this important want. More than one-third of the hool-rooms now in use are rented, and these rented rooms, involving an annual pense of over $30,000, are, as a rule, unfit for the purpose in respect both to health d convenience. We therefore approve the suggestions contained in the report of the ıstees, that the school fund of $70,630.49, now invested in 3.65 District of Columbia nds, be devoted to the erection of additional school-houses, and that in lots in square mbered 446, purchased by the District for a market, be utilized in the same way. ıese lots since the *erection* by private enterprise of a spacious market-house on

square numbered 515 are not required for the purpose intended, and the Commissioners are of opinion that the fund and lots named could be most econonically used to supply in part the urgent need of additional school buildings.

Since that report was made, a new market-house has been erected, and is now ready for occupancy, on Rhode Island avenue, near Eighth street, northwest, a few blocks only northwest of square 446; not by the District, but as a private enterprise.

By the bill under consideration the Commissioners of the District are required to appropriate this square to market purposes, although they have in three several reports recommended that it should be otherwise disposed of, and in their last report say it is not needed for market purposes.

The Commissioners are required to prepare plans in detail for a market-house to contain not less than 150 stalls, not less than 9 feet in length, with complete space for the use thereof for market purposes, with proper sewage, water-closets, water and gas pipes; and after advertisement to sell the stalls at public auction, and execute to the purchaser a certificate of sale, a right to the same in perpetuity, and the right so acquired may be conveyed or transmitted by descent *as real estate.* This right, however, is subject to the payment of a rent, which by the terms of the bill is not to exceed an average of four dollars per month per stall. Whenever the aggregate of these sales shall amount to $30,000, the Commissioners are to advertise for proposals for the erection of a market-house.

If this bill shall become a law, the District would become bound to appropriate this square, or a portion of it, for market purposes in perpetuity, and erect, keep up, and maintain a market-house thereon for the use and benefit of the stallholders. There is no way in which the District can regain the sole control and ownership of the property.

This is not asked for by the District authorities, but, on the contrary, is in direct opposition to their recommendations. With two market-houses already existing within a few blocks of this location, there is no apparent necessity for a market on this square. If the recommendation of the Commissioners is carried out, and this property is sold, it may at such sale be purchased by any parties who have confidence that it can be profitably used for market purposes, and they can erect thereon such market buildings as they may deem advisable, and in the present financial condition of the District we think the demands for additional market facilities, if such are needed, should be met by private enterprise. From the official reports of the Commissioners, as transmitted to Congress, it is apparent that the public interests require that this property should be devoted to other than market purposes.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 297.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1880.—Ordered to be printed.

Mr. LOGAN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 933.]

Your committee, having had under consideration the bill (S. 933) for the relief of Lieut. Edward S. Farrow, of the Twenty-first Infantry, for compensation for loss of and damages to personal property lost by him in being transported from Camp Kearney to Umatilla, Oreg., during the Bannock war in 1878, *report:*

Lieutenant Farrow makes the following statement: "When this property reached Canyon City, was there stored, the *citizens*, in an extreme state of fear and excitement, ransacked the boxes, both government and personal, in search of arms, ammunition, &c." Hence, it appears from his own statement that individuals were responsible for the destruction of this property, and therefore the government ought not and cannot be held responsible without establishing a precedent that would place it in the light of an insurance company. We, therefore, ask to be discharged from the further consideration of this bill, and that the same be indefinitely postponed.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 298.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1880.—Ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3783.]

The Committee on Military Affairs have had under consideration the bill (H. R. 3783) to remove the charge of desertion from the military record of Jerry Foley, and adopt the report of the House committee, recommending its passage:

The Committee on Military Affairs, to whom was referred the petition of Jerry Foley, late a private of Company C, Ninth Maine Volunteers, in which he asks to be relieved from the charge of desertion, beg leave to report:

This soldier served a three-year enlistment in the volunteer Army of the United States, and in 1864 re-enlisted in the same company and regiment, Company C, Ninth Maine Volunteers. At the battle of Deep Bottom, Virginia, in August, 1864, he was shot through both feet, taken prisoner, and carried to Richmond. He was sent from Richmond to Annapolis, and, his wounds being severe, he was furloughed and allowed to go to his home at Portland, Me. From Portland he was sent to hospital at Bangor to be treated for his wounds. His wounds continued to be such as to render him unfit for service, and he remained at Bangor for some two months. He then left the hospital without leave and returned to his home at Portland, where he continued until his regiment was mustered out. From the time he was wounded until the muster-out of his command he was at no time fit to render the government any military service whatever. He seems simply to have transferred his treatment from the hospital to his home. Had he remained in hospital he would have been regularly discharged, and upon such terms as would have assured him an immediate pension. He was only a deserter in a purely technical sense, for he was all the time unable for duty.

Your committee beg leave to report the accompanying bill, and recommend its passage.

O

H CONGRESS, 2d Session. } SENATE. { REPORT No. 299.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1880.—Ordered to be printed.

PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 1305.]

Committee on Military Affairs, to whom was referred the bill (H. R. 305) abolishing the military reservations of Fort Abercrombie, Fort eward, and Fort Ransom, all in the Territory of Dakota, and authoriz- ıg the Secretary of the Interior to have the lands embraced therein sur- eyed and made subject to homestead and pre-emption entry and sale the ıme as other public lands, have had the same under consideration and ubmit the following report:

'hat the reservations proposed to be abolished are no longer needed military purposes and have been abandoned for several years. In judgment of the committee there is nothing in the character of the ds embraced in them to enhance their value above surrounding lands ject to homestead and pre-emption entry. The homestead area is ng rapidly diminished, and it has become the settled policy of the 'ernment to reserve the public domain to actual settlement. The ımittee can see no objection to the bill, and they recommend its pas- ;e without amendment.

O

6TH CONGRESS, 2d Session. | SENATE. | REPORT No. 300.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1880.—Ordered to be printed.

[r. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 916.]

he Committee on Military Affairs, to whom was referred the bill (S. 916) to authorize the United States to secure a title to certain military and timber reservations embraced within the limits of Fort Union military and timber reservation, respectfully submit the following report:

The same subject was submitted to the committee in Senate bill 1054, orty-fifth Congress, third session, and was reported back January 23, 879, with amendments, and the committee recommended the passage f the bill as amended. A full report to accompany said bill was ade by Mr. Butler for the committee, No. 621. The committee has arefully reviewed its former action and believe it correct. The committee dopt said former report 621, and in addition thereto subjoin the fol-wing letter of the Secretary of War, in response to a letter written on e 14th instant by Mr. Maxey, of the committee, who sought to learn hether or not the views of the War Department were changed or modi-ed from those shown by the report aforesaid herein readopted. Said mmunication is as follows:

WAR DEPARTMENT,
Washington City, January 27, 1880.

SIR: Returning herewith Senate bill 916, "to authorize the United States to secure title to certain military and timber reservations," and Senate bill 1054, Forty-fifth ngress, third session, with accompanying report No. 621, inclosed in your letter of 14th instant, with request for the views of this department on the subject, I have honor to state for your information that it appears of record that a patent has en issued to private parties to land known as the Mora grant, in New Mexico, which ant embraces the land upon which Fort Union is situate, as well as a large timber serve adjoining.

In the inclosed Senate report, on pages 4 and 6, the views of the General of the my and the Secretary of War as to the importance of retaining this post and secur-g the title of the land to the United States are fully set forth. The General of the my has further reported as follows, in response to a reference to him of your inquiry the 14th instant:

"I am sure that the land now embraced in the military reservation of Fort Union, w Mexico, is worth more to the United States than an equal quantity of vacant d belonging to the United States between the Mississippi River and the Rocky untains, and therefore the exchange is favorable to the United States.

"I therefore reaffirm the opinion expressed in my letter of June 17, 1877."

Upon a perusal of the views of my predecessor, as shown in said report, I beg to say at I fully concur with them and with the General of the Army.

Very respectfully, your obedient servant,

ALEX. RAMSEY,
Secretary of War.

Hon. S. B. MAXEY,
Committee on Military Affairs, United States Senate.

"March 16, 1876, copies of the Acting Commissioner's letters and plat were inclosed to the Secretary of War by the Secretary of the Interior.

"April 8, 1876, the commanding general, Department of the Missouri, General Pope, reported that the reservation declared by the President Aug. 18, 1857, embraced sections 9 to 16, inclusive, in township 18 north, range 20 east, and while understood to have been made for farming purposes, had not been used for that or any other purpose for many years, and that there was no probability that it would ever be required for any military purpose. General Pope enclosed copy of dispatch from Captain A. S. Kimball, assistant quartermaster, setting forth that to replace the buildings upon the reservation at Fort Union would cost the government about $274,000, and estimating the value of the present buildings at about ⅓ of that sum. The general further reported that Fort Union, which is a 4-company post, is very favorably located for military purposes; that the depot is used for the general supply of the other posts in the district, and the arsenal for the same purposes; that the government has in buildings and stores a very large amount invested there; and in his opinion the post and the other establishments at that point are necessary for the public service, and the post and timber reservations are not too large.

"May 6th (6), 1876, a copy of General Pope's report was, together with the history of the Fort Union military reservations, &c., transmitted to the Secretary of the Interior by the Secretary of War, concurring in the views of General Pope, that the post at Fort Union and the other establishments are necessary for the public service.

"Subsequently Maj. J. F. Wade, 9th Cavalry, commanding post, transmitted a report of the value of the buildings, placing the total value (including $16,000 valuation of traders and other private buildings) at $290,000, provided the government wished to retain the post, depot, and arsenal at that place, in which case their value (with the expenditure of a few thousand dollars in repairs) would probably be as much as the cost of erecting new buildings, otherwise they would have no market value, and would probably bring but a fraction of their value.

"May 22, 1876, the Secretary of the Interior inclosed copy of report of the Acting Commissioner of the General Land Office, who stated that after a careful examination of the official survey of the case, approved by the surveyor-general of New Mexico, there appeared no doubt that it correctly locates the Mora grant, and that the claimants are entitled to a patent for the lands embraced in said survey, with the exception of the limits reported for confirmation in favor of John Scolly *et al.* The Acting Commissioner further stated that it appears from the records of his office that the post and timber reservations created by the executive order of October 9, 1868, are located entirely within the limits of the aforesaid survey.

"July 5, 1876, Captain W. R. Shoemaker, military storekeeper ordnance, commanding Fort Union arsenal, reported that the Mora grant embraced within the boundaries set forth covers nearly the whole of the settled part of Mora County, an area extending over fifty miles from north to south and east to west; that when the government took possession of what is now the Fort Union military reservation, the late General E. V. Sumner was in command of the Military Department of New Mexico (9 military department), and established the post of Fort Union, and Fort Union arsenal as an appendage thereto, extending military jurisdiction over an area of six miles square, one township in extent, *and caused a survey to be made and notice against all trespass given; that this extent of area was necessary in order to secure timber and pasturage for the posts*, and that no notice or protest from the grantees of the Mora land grant was at that time or at any subsequent period served or given, to his knowledge, against the military occupancy, and he went there under General Sumner in 1851; that since that time most extensive and costly buildings have been erected on the reservation—the fort, depots, and general hospital for the district and outworks have cost the government several millions of dollars, and are as necessary now for the protection of the supplies and troops as when the location was first made, there being at the arsenal alone nearly half a million dollars' worth of public property.

"July 19, 1876, the Secretary of War, by the advice of the Acting Judge-Advocate-General, as a prudential measure, appealed from the decision of the Acting Commissioner of the General Land Office of May 19, 1876, to the Secretary of the Interior, & notified him that said appeal would be prosecuted without unreasonable delay.

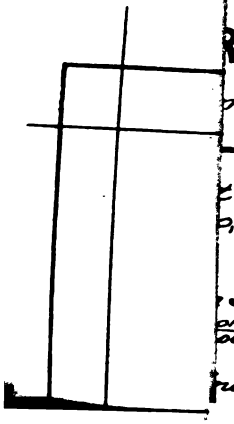
"Copy of Maj. Wade's and Captain Shoemaker's communications were furnished the Secretary of the Interior, but other measures taken in the prosecution of an appeal and the result thereof are not matters of official record in the Adjutant-General's Office.

"E. D. TOWNSEND, *Adjutant-General.*

"WAR DEPARTMENT,
"ADJUTANT-GENERAL'S OFFICE,
"*Washington, Jan.* 17, 1877.

"Subsequently the Secretary of the Interior informed this department that the patent had been returned for correction, and that it contained the following reservation:

"'The U. S. herein especially reserves to itself the buildings and improvements



RANT

ned.

with the Surveyor

Surveyor;

00 acres

rch.

:uated on the Fort Union military and timber reservations as at present established, gether with the possession and use of the same, and the right to remove said build-gs and improvements upon the discontinuance or abandonment of said reservations · the United States.'"

"On the 15 of August, 1876, this department suggested that the reservation in the ,tent be amended by inserting after the word 'same' the words 'so long as they ay be needed for military purposes,' and that the reservation would then afford fficient security to the government, and the appeal heretofore taken in the matter said grant would be withdrawn.

"The Secretary of the Interior replied on August 17, 1876, that it is impossible to nend as suggested, and remarked that there seemed to be no method by which the antees can compel the government to abandon the post, should they feel so inclined.

"Indorsed Sept. 17, 1876, seen by the Secretary of War and referred to the Quarter-aster-General for file.

"W. T. CROSBY, *Chief Clerk.*

"HEADQUARTERS OF THE ARMY,
"*Washington, Jan.* 17, 1877.

"I have personally visited and inspected Fort Union, N. M., on several occasions. s history is well given in a report of the Adjutant-General herewith.

"Fort Union has already fulfilled its chief purpose in contributing to the develop-ıent of New Mexico, Colorado, and surrounding country, and should be maintained ır some time to come. The buildings are all of adobe, sun-dried brick, which cannot e moved. I doubt if a sale would realize the usual auctioneer's fees, but to rebuild lsewhere would cost the estimated value of 275,000 dollars. Therefore, it is manifestly › the interest of the United States to secure title to the ground.

"If the land occupied be clearly within the Mora grant, of which I suppose there is o doubt, the proposition to convey to the U. S. a free deed for the Fort Union reserva-on in exchange for the same amount of public land elsewhere is so liberal that I ad-ise its acceptance at once. As a matter of course, this reservation contains the best art of the land of New Mexico east of the Rocky Mountains.

"W. T. SHERMAN, *General.*

"COMMITTEE ON MILITARY AFFAIRS,
"*Ho. of Rep's, Apr.* 18, 1870.

"I hereby certify that the above is a true copy of a paper on file with this committee.

"CHAS. W. DIETRICH,
"*Cl'k Mil. Com. Ho. of Rep's.*"

"HEADQUARTERS DEPARTMENT OF THE MISSOURI,
"*Fort Leavenworth, Kansas, April 8th,* 1876.

'o the ADJUTANT-GENERAL OF THE ARMY, *Washington, D. C.:*

hro' office of the assistant adjutant-general, headquarters Military Division of the Missouri.

'SIR: In compliance with instructions contained in your endorsement on papers re-ned herewith, I have the honor to make the following report:

'The post of Fort Union, New Mexico, was established in 1851, and was first estab-led on the present site of Fort Union arsenal.

'The post comprises the post proper, Fort Union depot, and Fort Union arsenal, and reservation declared by the President October 13, 1868, comprises fifty-one and a f square miles. The timber reservation, embracing the entire range of the Turkey ls, fifty-three square miles. There is also a reservation made by the President on gust 18, 1857, some miles southeast of the post, containing 5,120 acres, and embrac-sections 9 to 16, inclusive, in townships 18 north of range 20 east.

'This last reservation, it is understood, was made for farming purposes, but it has been used for those or any other purpose for many years, and there is no probability t it ever will be required for any military purpose.

'This reservation is the one alluded to in your endorsement on papers returned here-h, as having been made in 1851. The post commander has been written to for in-nation concerning any buildings that may be on it, and his report will be forwarded n received.

The post commander has also been directed to send full list of all buildings at the t and their estimated value, which report will be forwarded as soon as received.

As I was called upon for an early report, I have called by telegraph for a prelimi-y statement, and have received by telegraph the following:

'To replace thirty-one buildings at post would cost $132,000; twenty-five at depot,

$97,000; sixteen at arsenal, $45,000; value present buildings estimated two-thirds these amounts.'

"Fort Union is a four-company post, very favorably located for military purposes. The depot is used for the general supply of the other posts in the district, and the arsenal for the same purposes. The government has in buildings & stores a very large amount invested there, and in my opinion the post & the other establishments at that point are necessary for the public service.

"The reservation at the post and the timber reservation are not considered too large.

"I have already stated my opinion in regard to the reservation made in 1857.

"I am, sir, very respectfully, your obedient servant,

"JOHN POPE,
"*Brevet Major-General, U. S. A., Commanding.*

"COM. ON MIL. AFFAIRS,
"*Ho. of R., April* 18, '78.

"I hereby certify that this is a true copy of a paper on file with this committee.

"CHAS. W. DIETRICH,
"*Cl'k Mil. Com. H. of Rep's.*

"DEPARTMENT OF THE INTERIOR,
"GENERAL LAND OFFICE, *Washington, D. C., Jan.* 29, 1877.

"Hon. H. B. STRAIT,
"*House of Representatives:*

"SIR: I have the honor to acknowledge the receipt of your letter of the 24th inst., enclosing H. R. 4304, entitled 'A bill to authorize the United States to secure a title to the Fort Union military and timber reservation in New Mexico,' and requesting my general views on the subject, and, particularly, as to whether it would be to the interest or otherwise of the government to have said bill passed.

"Said bill provides substantially that upon the owner or owners filing in this office good and sufficient deeds in law, conveying to the United States all their right, title, and interest in and to the land embraced within the Fort Union military and timber reservation, as represented by a certain survey and plat thereof, and as set apart by the President, they shall be entitled in lieu thereof to certificates of location, with which may be located an equal quantity of the unappropriated, including unsurveyed, public lands of the United States.

"It appears from the records of this office that the Mora grant, within the boundaries of which the said Fort Union military and timber reservation is located, was recommended by the surveyor-general of New Mexico in his report dated July 9, 1859, to Congress for confirmation (see House Ex. Doc. No. 14, Thirty-sixth Congress, first session, p. 190), and confirmed by Congress, as recommended by the surveyor-general, by the third section of the act of June 21, 1860, as No. 32.

"A survey was made of said grant by Deputy Surveyor Thomas Anans, and the plat and field-notes thereof approved by Surveyor-General Spencer August 5, 1871.

"On the 15th of August, 1876, this office, in accordance with the provisions of the act of March 3, 1869, issued a patent therefor to the confirmees.

"The aforesaid military reservation as surveyed by Lambert, under the direction of the War Department, in 1868, contains fifty-one and a half square miles, and the timber reservation as surveyed by the same person during the same year contains fifty-three square miles, the two aggregating one hundred and four and a half square miles. Both of said reservations are entirely within the limits of the Mora grant, as surveyed and patented as aforesaid, said patent, however, reserving to the United States the right to remove at any time the government buildings and improvements situated on said reservation.

"The title to the land upon which said fort is situated was never in, except as trustee under treaty stipulation, the government. The question of the propriety of the exchange, as proposed by said bill, seems to come more properly within the province of the War Department to decide than of this office.

"It appears from a report from the Secretary of War filed in this office, previous to the issue of the patent for the Mora grant, that the government buildings and improvements on said reservation are valued at $290,000, but that said improvements are not worth that sum unless the government can retain the post depot and arsenal where it now stands.

"I have also been informed that the necessity of retaining the post on its present site is such as to have induced the Secretary of War and the General of the Army to recommend the exchange or the purchase of the land covered by Fort Union military and timber reservation, as proposed by bill in question.

"If I am correctly informed as to such recommendations by the Secretary of War and the General of the Army, and taking in consideration the value to the government of the improvements on said reservation, and further considering that military reservations are always located upon the best sites with reference to wood, water, and other

natural advantages, I am of the opinion that it would be for the best interest of the government, and therefore recommend the passage of the bill.

"Very respectfully, your obedient servant,

"J. A. WILLIAMSON, *Commissioner.*"

Your committee, deeming it important that the Secretary of War should furnish additional facts and express opinion respecting the merits of the bill and the advisability of securing title to the lands now comprising the military reservation of Fort Union, addressed him in that behalf, to which he replies as follows:

"WAR DEPARTMENT,
"*Washington City, October* 21, 1878.

"SIR: In reply to the communication of the committee of the 8th instant, by its clerk, inclosing Senate bill No. 1054, to authorize the United States to secure a title to certain military and timber reservations at Fort Union, in New Mexico, I beg to state that the records of the War Department furnish the following replies to the interrogatories of the committee:

"To question 1: That on July 26, 1851, Brevet Col. E. V. Sumner, commanding the Ninth Military Department, fixed his quarters at a point near the Moro, and established the post of Fort Union, and on May 11, 1852, by General Orders No. 30, directed that the limits of the reservation cover eight miles square, the fort to be the central point.

"On October 9, 1868, the President of the United States reduced the post reservation to an area of 51½ square miles, and on the same date he declared a timber reservation embracing the entire range of the Turkey Hills, and comprising an area of 53 square miles.

"On August 18, 1857, the President declared a reservation some miles southeast of the post, containing 5,120 acres, for farming purposes.

"To question 2: The military reservations thus declared have been held exclusively for the uses of the Army up to the present date. The annexed plat shows their limits, and also the limits of the Moro grant.

"To question 3: The value of the improvements erected by the government upon the same—supposing this means the present value—is reported by the military authorities at a total of $290,000, provided the government wished to retain the post, depot, and arsenal, in which case the value, with the expenditure of a few thousand dollars in repairs, would probably be as much as the cost of erecting new buildings. If the government did not wish to retain the post, they would have little or no value.

"The amount of the expenditures made by the United States upon the reservations since they were declared is unascertained. The value of the improvements is based solely upon the estimate of the cost of erecting them at the present time.

"To question 4: The title of the government has been settled in the Department of the Interior. The War Department's title was founded upon the orders of the President creating the reservations, and it appears from official notifications, from the Department of the Interior, that all the reservations mentioned are within the limits of the Moro grant, for which a patent is alleged to have been issued to certain claimants.

"To question 5: No estimate has been made 'of the value of the timber, hay, and other appurtenances of the land comprising said reservation used by the government pending its occupancy. No estimate is possible, without going into very detailed and laborious examination of the transactions of at least twenty-five years.

"To question 6: No compensation has been made by this department for the use and occupation of the said reservations to any party or parties claiming title thereto.

"The subject having been again referred to the General of the Army, that officer reports as follows:

"'The military reservation of Fort Union, New Mexico, is now much larger than is needed. But the smaller reservation on the map herewith, marked red, as approved by the President October 9, 1868 (if the title be secured), will be valuable, though even a smaller one would suffice, say one section of 640 acres, embracing the buildings at Fort Union proper and the *arsenal.*'

"Referring to your request for my opinion as to the propriety of securing title to the United States to the entire premises in the manner contemplated by the bill, I have to say that I am not prepared to decide whether the government should give the owners an equal number of acres elsewhere in lieu of all the lands embraced within the military and timber reservations. It would certainly be equitable and just, as well as for the interest of the United States, to secure title to so much land as is needed for military purposes, and to give patents for other lands in lieu thereof, assuming, of course, that the title is adverse to the government. It seems also to be reasonable, upon the same assumption, that compensation should be made in some manner to the owners for the use of and any injury to such parts of the grant as the United States does not see fit to retain. General Sherman suggests that the smaller reservation on the map

herewith, marked red, as affirmed by the President October 9, 1863 (if the title be secured), will be valuable.

"With all the papers before them, the committee and Congress can determine as readily as the department how much and what portion of the land in question should be secured for military purposes. I am prepared to recommend, assuming that the title is in the claimants, that for so much as is held permanently for military uses they be granted an equal quantity of public land elsewhere; and, in view of the difficulty of determining the value of timber, hay, &c., heretofore taken from the land, it may be deemed expedient to take a somewhat larger quantity than is actually necessary, but whether the entire reservation should be acquired and paid for in other land is for Congress to determine.

"Very respectfully, your obedient servant,

"GEO. W. McCRARY, *Secretary of War.*

"Hon. GEO. E. SPENCER,

"*Chairman Military Committee, United States Senate.*"

It is proposed by this bill to secure to the United States a full, adequate, and complete title to the lands comprised within the military reservation of Fort Union, by issuing to the owners thereof certificates of location for an equal quantity of unappropriated public lands of the United States, not mineral nor what is known as double-minimum lands, not exceeding 65,000 acres; this in full satisfaction of all right, claim, or demand against the United States, of any kind, character, or nature, for use, occupancy, or damages. In view of the facts that the government has expended large sums of money for improvements on said reservation which cannot be removed, and that no compensation has heretofore been made, as contemplated by the Constitution, for this private property taken for public use, your committee are of opinion that the plan of arrangement provided by the bill is advantageous to the government as a means of economical settlement. Your committee therefore recommend the passage of the bill as amended.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 301.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1880.—Ordered to be printed.

Mr. PRYOR, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 170.]

The Committee on Claims, to whom was referred the bill (S. 170) for the relief of Tolley & Eaton, of Lynchburg, Moore County, Tenn., having had the same under consideration, beg leave to report:

The bill authorizes and directs the Commissioner of Internal Revenue to release Messrs. Tolley & Eaton, of Lynchburg, Moore County, Tenn., from the payment of a tax, amounting to $1,047.88, assessed on 1,164.31 gallons of whisky, "the same being the quantity they fell short of producing on their surveyed capacity during the month of April, 1878."

It appears that in the month mentioned, the claimants, who are distillers, commenced operations with a new distillery and new machinery, run for the first time by steam. The latter proved defective in various ways, and to such an extent that their operations were practically suspended. The claimants, as well as their employés, exerted themselves in every possible way to remedy these mishaps; but they had great difficulty in procuring materials for repairs, as the nearest point at which they could be obtained was the city of Nashville, a distance of seventy-five miles. Owing to these causes, they fell short of producing the quantity of spirits required under their surveyed capacity 1,164.31 gallons, on which the tax complained of was assessed. The evidence submitted is very strong and conclusive on these points.

L. D. Barnes, storekeeper and gauger, certifies that Messrs. Tolley & Eaton, as well as their employés, did all that could be done to reach the surveyed capacity, and that they were in no way to blame for the failure, which was attributable to defective machinery.

E. P. Reynolds, deputy collector, and S. J. Book, United States storekeeper, certify to the same facts, and, besides, bear testimony to Messrs. Tolley & Eaton's good character, and their uniform willingness to comply with all internal-revenue laws and regulations.

G. Hanning, internal-revenue officer, certifies that the deficiency was unavoidable; that Tolley & Eaton did everything in their power to adjust the machinery properly and make it perform its proper functions, but it was "a physical impossibility" to do so. He also bears witness to the good character of Tolley & Eaton and their ready compliance at all times with internal-revenue laws and regulations.

W. M. Woodcock, collector of internal revenue for that district, expresses his belief in all the statements mentioned, and strongly recommends that the assessment be not made.

In view of *these facts, your* committee think that Messrs. Tolley &

Eaton are clearly entitled to the relief asked. For the government to collect this amount, assessed on whisky which they were unable to make on account of mishaps which could neither be foreseen nor avoided, would not only be a great hardship, but an absolute act of injustice, and place it in the attitude of taxing the misfortunes of its citizens.

The Commissioner of Internal Revenue has no discretion in the matter, and the claimants are forced to appeal to Congress for relief.

We report back the bill with the recommendation that it do pass.

O

H CONGRESS, 2d Session. | SENATE. | REPORT No. 302.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1880.—Ordered to be printed.

. LOGAN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany the bill S. 1008.]

Your committee having under consideration the bill (S. 1008) for the ef of W. A. Winder, late a captain in the Third Artillery, United tes Army, providing for his reinstatement to his former rank in the my, find that the said Winder resigned his commission as captain, of own volition, without having in any way distinguished himself dur- his term of service from 1848 to 1866. Your committee would, there- e, recommend the indefinite postponement of this bill.

O

CONGRESS, } SENATE. { REPORT
Session. } { No. 304.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1880.—Ordered to be printed.

)GAN, from the Committee on Military Affairs, submitted the following

REPORT:

committee, having under consideration the case of First Lieut. Saxton, for his reinstatement in the Army, beg leave to report ıe statement of the Judge-Advocate-General, which is herewith ɔd, is of such a character as to justify an adverse report, and your ttee ask to be discharged from further consideration of the case.

WAR DEPARTMENT, BUREAU OF MILITARY JUSTICE,
May 29, 1878.

ECRETARY OF WAR:

ccompanying record of the trial by general court-martial in April last of First d. W. Saxton, Twenty-fourth Infantry, is respectfully returned with report. enant Saxton was brought to trial under the following charges and specifica-

arge: Conduct unbecoming an officer and a gentleman.
cation: In this, that the accused did return an official communication referred for a statement by order of the department commander of Texas, with the fol- indorsement:

"SAN ANTONIO, TEX., *March* 27, 1878.

pectfully returned. The account is correct. On leaving Fort Duncan, per tele- order, I arranged with Lieutenant Dodt, in charge of office of assistant com- of subsistence, to present my commissary bill to Mrs. W. C. Jones, of Eagle here I had been taking my meals, and that it would be paid on or before ıy, the 21st. I left on the 18th, the day the within letter was written. It was the full knowledge and by consent of Lieutenant Dodt that I was allowed ɔe days for payment, and it cannot be that on the 18th he has presented the if he had even before the time agreed upon, it would have been paid on pre- n. I shall ascertain by telegraph if it has not been paid as agreed upon."

tatement contained therein in reference to an agreement made between the and Lieutenant Dodt, adjutant Twenty-fourth Infantry, to present the com- bill in question to Mrs. W. C. Jones, or cause it to be presented to her, either 8th of March or within three days thereafter, being entirely false, known to to be false, and made to deceive and mislead.

onal charge: Conduct unbecoming an officer and a gentleman.
cation 1: In that accused did, at Brackettsville, Tex., on or about November represent to Henry Roach, of Roach & Mahon, that he had sent his pay s for November to the San Antonio Bank for collection, with instructions to amount collected subject to his order, and did show said Roach a letter from ık acknowledging receipt of said pay accounts; by which means the accused uce Roach & Mahon to cash at face value two checks (which checks he re- should not be presented for payment till towards the end of the month), as One check for $63, dated November 9, 1877, and one check for $19, dated er 27, 1877. Which checks were presented for payment by said firm on or ecember 5, 1877, and were refused payment, the accused having no funds at ık, he having *previous to* December 1, 1877, withdrawn from said bank by

check or otherwise all funds therein to his credit, except 46 cents. This, although the said bank had collected the full amount of said pay-accounts for November, viz, $150.

Specification 2: In that accused having, on November 9, 1877, drawn a check in favor of Roach & Mahon for $63, and on November 27 a check for $19 in favor of said firm, receiving full face value therefor, and said checks having been presented and rejected by said bank, and the accused having, December 5, been notified by Roach & Mahon that payment had been refused, did fail to pay or take up said checks, and has ever since so failed to pay the same, or make any arrangement with said firm relative to their payment, except in this, that on or about February 18, 1878, he did draw and deliver to said firm a draft in their favor on General R. Saxton, at Fort Leavenworth, Kans., covering the amount due them, which draft was protested.

To the first charge and its specification the accused plead not guilty.

To the specifications of charge second he filed, what is entitled by him, a plea in bar, but which is more strictly an objection to their consideration, on the ground of their insufficiency and vagueness. The court overruled the plea, and properly; for while the specifications in question are not what they should have been, and an intent to defraud might better have been alleged than merely implied, yet they are deemed sufficiently accurate for military proceedings.

The accused thereupon pleaded not guilty.

The court find the accused guilty under all the specifications and charges, and sentence him to be dismissed the service.

The reviewing authority forwards the record for the action of the President, with the following indorsement:

"The proceedings are approved.

"It appears from the evidence bearing upon the specification to the charge, that before leaving the post Lieutenant Saxton arranged with the acting commissary of subsistence with the view that his commissary bill should be paid after he should have left the post. What the acting commissary of subsistence understood the details of that arrangement to be, is clearly proved; but that Lieutenant Saxton had the same understanding of the matter, does not so clearly appear. A misunderstanding in regard to the terms of a verbal agreement might easily occur between two persons who were equally honest, and whose memories were equally good. For these reasons the findings on the charge and its specification are disapproved. The findings on the additional charge and its specifications are approved. The sentence is also approved, and in accordance with the terms of the 106th Article of War, the proceedings are respectfully forwarded to the Secretary of War, for the action of the President of the United States."

It appears in the evidence offered in support of the specification to charge 1, that the accused, while on duty at Fort Duncan, Texas, received, in March last, an order to report at San Antonio for trial by general court-martial. He was to leave Fort Duncan on the 18th, and the acting commissary, Lieutenant Dodt, notified him in writing on the 16th that he owed the commissary department $19 for stores purchased by him, and requested him to pay before setting out. The accused saw Lieutenant Dodt in person, and promised payment within three days; and, as he testifies, requested Lieutenant Dodt to apply to Mrs. Jones, his wife's mother, for the money, and received a promise to that effect.

Lieutenant Dodt did not apply to Mrs. Jones, and the accused left the post without settling his commissary bill, and it has never yet been settled. Lieutenant Dodt, on the same day on which the accused left for San Antonio, wrote officially to the assistant adjutant-general of the department, notifying him of these facts, and requesting that accused's pay might be stopped. This communication was referred to the accused for remark, and he thereupon wrote upon it the indorsement which is the foundation of the first charge. Lieutenant Dodt swears that he never agreed to apply to Mrs. Jones for the money, though he was, of course, willing to receive it from her in payment of the bill. The entire difference between him and the accused turns on the word apply. Mrs. Jones swears that the accused notified her that Lieutenant Dodt would apply to her for the money, and that she had it ready for him; but that no application was ever made. The non-payment of the commissary bill appears to have resulted from a misunderstanding of the terms of an oral agreement; and it is not proved that, in making the indorsement he did, the accused either stated what was certainly false, or, if Lieutenant Dodt's recollection of the agreement is better than the accused's, and the latter's understanding of the agreement was an erroneous one, that the accused stated what he *knew* to be false, or with any intent to deceive or mislead.

Under the additional charge all the facts alleged in the two specifications are virtually admitted by the accused as well as made out in proof. His defense is that he had given to Friedlander & Co., another firm, a check for $59, with the request that this should not be presented for payment at the bank until the end of December, the two given, the Roach & Mahon, being payable at the end of November; that the clerk of Friedlander & Co. distinctly promised him that he would not cash the check till he heard from the accused, but would hold it subject to his order; and that without

his knowledge the said clerk broke his promise and cashed the check in November, thus exhausting his funds in the bank, and leaving nothing with which to meet his checks given Roach & Mahon. This clerk so referred to (Morris Jacobs), the accused requested the judge-advocate to summon, and, on this being refused, obtained an order from the court for a subpœna to be sent him. On the day following this order the accused withdrew the request. The accused was himself sworn as a witness, and his explanation of the cause of the non-payment of the checks held by Roach & Mahon rests on his own unsupported testimony, and in rebuttal the prosecution shows by the testimony of Morris Jacobs, called for the government on the withdrawal by the accused of his application for his summons for the defense, that no agreement as testified to was ever made; that the check was given with the clear understanding that it was to be paid in November; and that it was not till after the witness had sent the check to be cashed that the accused requested him to hold it back till the following month, which he declined to do. The judge-advocate further showed in rebuttal of the theory of accused that but for Morris Jacobs's breach of faith he would have had funds in bank to meet his checks given Roach & Co., that the accused gave, during the same month of November, several checks to other parties—one to Friedlander & Co. for $10, one to James Cornell for $17.50, and one to Mrs. Hill for $60—which were cashed by the bank on presentation, and which left not enough money to accused's credit to meet the Roach & Mahon checks.

The accused objected to the admission of these checks on the ground that they were not referred to in the specifications; but are considered as legitimate evidence in rebuttal, and the action of the court in admitting them in evidence was justifiable.

The accused testifies in reference to his dishonored draft upon General Saxton, his brother, that he fully believed that it would be honored, for the reason that on two previous occasions his brother had paid drafts drawn by him, and that he gave it to Roach & Mahon in good faith. The credibility of this testimony, however, is shaken by his admission on cross-examination that at the time his brother honored his last draft, in January last, he telegraphed the accused that he should honor no more.

The accused has four times been convicted by general court-martial of offenses of greater or less gravity—the last three under charges of dishonorable conduct. A report upon his most recent trial, at which he was convicted of fraudulent acts and sentenced to dismissal, was submitted by this bureau on the 20th of the present month, and is now under consideration by the Executive. The circumstances then established in evidence were so gravely compromising as to preclude any favorable recommendation from this bureau in behalf of the accused, and nothing in the case now under review presents itself which tends to shake the confidence of this bureau in the justness of the views then held.

W. M. DUNN,
Judge-Advocate-General.

IN THE SENATE OF THE UNITED STATES.

February 25, 1880.—Ordered to be printed.

Cockrell, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 270.]

Committee on Claims, to whom was referred the bill (S. 270) for the re-f of Jeremiah C. Conklin, have duly considered the same, and submit e following report:

ıis bill directs the payment to Mr. Conklin, of Davenport, Iowa, of sum of $6,500, being the amount erroneously assessed against the firm of Conklin & Bass by M. M. Bane, late assessor of internal nue for the fourth Illinois district, and paid under protest by said klin for said firm to the collector of the first Illinois district in March, , in full satisfaction of the claim for the refund of said claim pre-ed by said Conklin.

bill (S. 866) precisely similar was introduced in the Senate, Forty-Congress, March 7, 1878, and referred to the Committee on Claims, a bill (H. R. 2393) was introduced in the House, and referred to the ımittee of Ways and Means. No action seems to have been had in er House. The papers in this case are very voluminous, and have ı carefully considered. The claim, as made out by Mr. Conklin under ılar No. 6 for taxes improperly paid and presented to the Commis-er of Internal Revenue, was verified by affidavit November 12, 1869, in this Mr. Conklin states his claim as follows: That Conklin & Bass engaged in distilling, and on January 15, 1868, they were assessed I. M. Bane, assessor fourth Illinois district, an internal-revenue tax 6,500, alleged to be on high wines, which sum he, Conklin, on March 1869, paid to John M. Corse, collector for said district, under pro-, and that said assessment and payment were erroneous and improper hese reasons: "That they had previously paid into the circuit court he United States $12,347, which was in full of all fines, penalties, assessments due or alleged to be due the United States; that after-ls, as above stated, he was made to pay $6,500 on this same trans-ɔn, which was a duplicate payment. They quit business in 1866, and ı these payments were made on the same transactions, and the sec-was made and paid by J. C. Conklin under protest, because the first nent in the United States court was well understood and agreed to final settlement of all taxes, fines, and penalties due or alleged to ue by said firm." The assessment was made for the months of Oc-r, November, and December, 1866, by M. M. Bane, assessor of the th Illinois district, January 15, 1868, on 3,250 gallons of distilled its, at $2 per gallon, $6,500, and a penalty of 100 per cent., $6,500, amounts *aggregating $13,000*, upon an affidavit of one Edward Sut-

cliffe, of Rock Island, concerning the fraudulent removal of high wines by Conklin & Bass, and was recommended and requested by W. C. Lawrence, United States revenue agent. In his affidavit attached to his claim Mr. Conklin swears, under date of November 12, 1869, that after they had quit distilling he engaged in banking in Davenport, Iowa, and when complaint was made that Conklin & Bass, and their distiller, Babcock, had violated the revenue laws, he went to Chicago to defend the case, and, "upon consultation, it was deemed advisable by him to plead *nolo contendere*, solely to sustain his reputation as a banker and a business man, and without admitting any guilt; that he was informed by the officers of the government that by so doing and by paying whatever fine the court imposed the whole case would be ended. Among others, Hon. George H. Parker, revenue agent, so informed affiant;" and that they thereupon paid into court $12,357 "in full settlement of the claims of the government on defendants, Conklin, Bass, and Babcock, their distiller," and in full accord and satisfaction of a judgment recovered at the December term, 1868, of the United States circuit court northern district of Illinois, in the cases of the United States against Conklin & Bass and their distiller, Babcock, and that "afterwards, in the same transaction, viz, the United States against Conklin & Bass, they were made to pay the sum of $6,500, and this was the same case, precisely the same transaction, and the same parties; that the two payments were demanded on the same transaction, and were a duplication." It appears that in the latter part of 1867, or early in January, 1868, proceedings were commenced by information in the name of the United States in the United States circuit court for the northern district of Illinois, one case against Jeremiah C. Conklin, one against Edward Bass, and two against Benjamin Babcock; and that on January 6, 1868, each of the defendants appeared in person, waived the service of process, voluntarily entered his appearance in court, and submitted to the judgment and finding of the court; and in the two cases, one against Conklin and the other against Bass, the court found that each of the defendants had violated four several sections of the internal-revenue act, as charged, and in each of the cases imposed a fine of $500 for the violation of section 26, act of 1866, and $500 for violation of section 31, same act, and $2,000 for violation of section 45, same act, and $2,000 for violation of section 48, act of 1864, amounting in each case to $5,000; and in the cases against Babcock, the court found that he had violated section 45 of the internal-revenue law, and in each case imposed a fine of $1,000, amounting to $2,000. In all these cases the defendants at once paid their fines into court, and the court thereupon ordered distribution of the same, and "upon the suggestion of the district attorney, upon proof filed, that George H. Parker was the informer against the defendants" in each case, and entitled to the moieties and shares of said penalties, amounting in each of the two cases against Conklin and Bass to $2,200, and in each of the cases against Babcock to $450, the court ordered the said moieties, amounting to $5,300, to be paid to said Parker, and the remainder, amounting to $6,700, to Jackson Grimshaw, collector fourth Illinois district, according to the rules and practices of the court, and such payments were accordingly made, and Mr. Grimshaw gave to the clerk of the court triplicate receipts for said $6,700, dated January 31, 1868. Among the many papers submitted to your committee are the affidavits of George H. Parker, formerly revenue agent and informer in all these cases, and M. M. Bane, the assessor, who made the assessment on January 15, 1868, so soon after the aforesaid judgments. The affidavit of Mr. Parker is dated November 10, 1869. He swears: "I supposed the settlement was a finality. I cer-

tainly so understood it, and informed the defendants. It was expressly understood that there should be no further assessment against the defendants. I know that Mr. Conklin understood it the same as I did, and I am satisfied he would not have consented to the settlement on any other terms." He further says that he believes the assessment of $6,500 was prompted by malice, and was bad faith on the part of the government officers who made the assessment, knowing that the defendants had made full settlement. Bane and Grimshaw, assessor and collector, in their affidavits, dated November 27, 1869, say they have read the affidavits of Conklin and Parker, "and believe the same to be true in all respects, and are satisfied that the assessment ought not to have been made." They all three recommended the refunding of the $6,500. Mr. Parker, in a subsequent affidavit of January 23, 1877, says, in his opinion, the assessment was instigated by the malice of Sutcliffe, a man of weak mind and doubtful reputation, and that he and Conklin had been neighbors and were friends, and that Conklin consulted him, and he advised Mr. Conklin to pay under protest, and apply for refundment, and that Conklin followed his advice. There is much conflicting testimony in regard to the alleged agreement at the time of the settlement of the four cases in court. The United States district attorney, Jesse O. Norton, states that he refused to enter into any agreement, but did not think the assessment ought to have been made. Your committee do not deem it necessary to judicially weigh all the conflicting evidence in regard to this alleged agreement, and in regard to the motives prompting the assessment immediately thereafter made, and on March 23, 1869, paid by the claimant Conklin. In this case, Conklin knew all the facts at the time of payment, and his rights and remedies in the premises under then existing laws; and according to the affidavit of his neighbor and friend, George H. Parker, who informed on him, and caused him to be fined, with his partner and distiller, in the sum of $12,000 and costs, $5,300 of which Mr. Parker got, he paid the assessment with the express intention of having it refunded.

The laws in force and governing the mode of relief are found in the act of July 13, 1866, reducing internal taxation and amending the act of June 30, 1864, and the acts amendatory thereof, and are as follows:

That section forty-four be amended by striking out all after the enacting clause and inserting in lieu thereof the following: That "the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, shall be, and is hereby, authorized, on appeal to him made, to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that shall appear to be unjustly assessed or excessive in amount or in any manner wrongfully collected, and also repay to collectors or deputy collectors the full amount of such sums of money as shall or may be recovered against them, or any of them, in any court, for any internal taxes or licenses collected by them, with the costs and expenses of suit, and all damages and costs recovered against assessors, assistant assessors, collectors, deputy collectors, and inspectors, in any suit which shall be brought against them, or any of them, by reason of anything that shall or may be done in the due performance of their official duties; and all judgments and moneys recovered or received for taxes, costs, forfeitures, and penalties, shall be paid to the collector as internal taxes are required to be paid: *Provided*, That where a second assessment may have been made in case of a list, statement, or return, which in the opinion of the assessor or assistant assessor was false or fraudulent, or contained any understatement or undervaluation, such assessment shall not be remitted, nor shall taxes collected under such assessment be recovered, refunded, or paid back, unless it is proved that said list, statement, or return was not false or fraudulent, and did not contain any understatement or undervaluation."

SEC. 19. *And be it further enacted*, That "no suit shall be maintained in any court for the recovery of any tax alleged to have been erroneously or illegally assessed or collected, until appeal shall have been duly made to the Commissioner of Internal Revenue according to the provision of law in that regard, and the regulations of the Secretary of the Treasury *established in* pursuance thereof, and a decision of said com-

missioner shall be had thereon, unless such suit shall be brought within six months from the time of such decision, or within six months from the time this act takes effect: *Provided*, That if said decision shall be delayed more than six months from the date of such appeal, then said suit may be brought at any time within twelve months from the date of such appeal."

Said section 19 was amended by the act of March 2, 1867, as follows:

That section nineteen is hereby amended by adding the following thereto: "And no suit for the purpose of restraining the assessment or collection of tax shall be maintained in any court."

The first section above quoted being a substitute for section 44 of the act of June 30, 1864, has been substantially incorporated into and is now section 3220 of the Revised Statutes, and said section 19 has been incorporated into and is now section 3226 of the Revised Statutes, and the amendment to said section 19, enacted March 2, 1867, is now section 3224.

Under the first section hereinbefore quoted, Mr. Conklin made his appeal to the Commissioner of Internal Revenue for the refunding of the said $6,500, having, previously to the payment thereof, obtained a remission of the 100 per cent. penalty assessed. His first appeal was filed with the Commissioner October 12, 1869, and, by section 19, hereinbefore quoted, he had twelve months from the date of such appeal within which to bring his action, in his own State, against the collector and assessor. He failed, neglected, and refused to enforce his rights in the courts of the country, and trusted to a favorable decision by the Commissioner, and permitted his appeal to remain pending before the Commissioner until February 6, 1874, when it was rejected by the Commissioner "for the reason that it was not shown that the taxes were erroneously assessed and collected."

On June 6, 1872, an act was approved entitled "An act to reduce duties on imports, and to reduce internal taxes and for other purposes," section 44 of which is as follows:

SEC. 44. That all suits and proceedings for the recovery of any internal tax alleged to have been erroneously assessed or collected, or any penalty claimed to have been collected without authority, or for any sum which it is alleged was excessive, or in any manner wrongfully collected, shall be brought within two years next after the cause of action accrued and not after; and all claims for the refunding of any internal tax or penalty shall be presented to the Commissioner of Internal Revenue within two years next after the cause of action accrued and not after: *Provided*, That actions for claims, which have accrued prior to the passage of this act, shall be commenced in the courts or presented to the Commissioner of Internal Revenue within one year from the date of said passage: *And provided further*, That where a claim shall be pending before said Commissioner the claimant may bring his action within one year after such decisions and not after: *And provided further*, That no right of action barred by any statute now in force shall be revived by anything herein contained.

Said section has been substantially incorporated into and now forms section 3227 and 3228 of the Revised Statutes. At the date of the passage of this act his claim for refunding was pending before the Commissioner of Internal Revenue and was not decided until February 6, 1874, and consequently he had his right to bring his action within one year after such decision. He failed, neglected, and refused to bring his action within the one year from the date of his appeal, October 12, 1869, as authorized by the act of July 13, 1866, and not only this, but when the act of June 6, of 1872, providing "that where a claim shall be pending before said Commissioner the claimant may bring his action within one year after such decision and not after," gave him the right within one year after his pending claim should be decided, whenever that should be, to bring his action; he again failed, neglected, and refused to avail himself of his rights in the courts, and the adequate remedies provided

by law in the judicial tribunals so peculiarly fitted to hear and determine such a case as this according to the weight and preponderance of the evidence. And now after the lapse of years, and after having twice slept away his right to bring his action in the courts of the country, he appeals to Congress for relief without showing one solitary reason for his failure to enforce his rights in the courts.

Your committee do not believe that it was ever intended by the terms of the Constitution, or the laws of Congress made in pursuance thereof, to give such a claimant the option, the choice, either to bring his action as authorized by law or to await his own convenience, sleep away his rights at law, and then afterward appeal as the only mode of relief to Congress.

Your committee, after having examined all the evidence in the case, referred the bill to the Secretary of the Treasury and received from him the following letter and copy of a letter from the Commissioner of Internal Revenue:

TREASURY DEPARTMENT,
January 12, 1880.

SIR: Your letter of the 27th ultimo, inclosing Senate bill No. 270 "for the relief of Jeremiah C. Conklin," has been received and referred for report to the Commissioner of Internal Revenue. His report, dated the 7th instant, is herewith transmitted, and will, it is thought, be found to contain pretty full answers to the inquiries contained in your letter as to the facts referred to.

You will perceive that all the important papers in this case have been sent to Hon. S. J. McMillan, formerly chairman of your committee, and, so far as I have knowledge, should be found among its files.

I concur with the Commissioner in the opinion that the claimant has had ample opportunity for making good his claim before the Office of Internal Revenue, and if he failed to secure justice under the law from the Commissioner, he had a right of action in the courts, of which he did not avail himself, and hence his appeal to Congress at this late day should be considered of doubtful validity.

With the light thrown upon the case by the report of the Commissioner and the records of this Department, I cannot recommend the passage of the bill.

Very respectfully,

JOHN SHERMAN, *Secretary.*

Hon. F. M. COCKRELL,
Chairman Committee on Claims, United States Senate.

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, D. C., January 7, 1880.

SIR: I herewith acknowledge the receipt of letter of Senator F. M. Cockrell, inclosing a copy of Senate bill No. 270, with request of J. K. Upton, Chief Clerk, indorsed thereon, that I furnish your office with a report in the case. In reply I submit the following statement of facts: J. C. Conklin and Edward Boss, under the firm name of Conklin & Boss, were, during the year 1866, engaged in the business of distilling spirits at Rock Island, in the fourth collection district of Illinois. In the latter part of the year 1867, after the said firm had discontinued business as distillers, they, with one Babcock, an employé of the distillery, were indicted for violation of the internal revenue laws, it having been ascertained that during the latter part of the year 1866 they had removed a large quantity of spirits without the tax thereon. On the 6th of January, 1868, upon a plea of *nolo contendere,* judgment was rendered against the parties indicted, they paying an aggregate fine of $12,000, exclusive of costs. Of this $12,000 $6,700 only was received by the United States, the balance having been paid as moieties to informers. No part of the amount was paid or received as taxes.

On the 15th of January, 1868, upon evidence furnished by H. C. Lawrence, special agent, an assessment of $13,000 was made against the firm of Conklin & Boss, being $6,500 for tax on spirits alleged to have been removed without payment of tax and $6,500 as a penalty of 100 per cent. The $6,500 tax was paid by J. C. Conklin to Collector Corse, under protest, on the 23d of March, 1869, the penalty having been previously abated. On the 12th of October, 1869, and on the 21st of March, 1871, Mr. Conklin filed claims in this office for the refunding of the tax so paid, alleging that Conklin & Boss had previously paid into the circuit court of the United States $12,347, which was in full for all fines, penalties, and assessments due or alleged to be due the United States, and that the $6,500 was assessed on account of the same transaction for

which the said $12,347 was paid, and was therefore a duplicate payment. These claims were rejected by Commissioner Douglass February 6, 1874, for the reason that it was not shown that the taxes were erroneously assessed and collected.

Assessor Bane appears to have taken no action in this case other than to make the assessment upon the recommendation and at the request of Special Agent Lawrence, and then to certify the assessment to an assistant assessor of the second district of Iowa, and to the collector of his own district. The tax was assessed and collected under section 32 of the act of July 13, 1866.

Copies of all the important papers in this case were sent to Hon. S. J. McMillan, chairman Senate Committee on Claims, on the 3d of May, 1878.

As to whether the passage of Senate bill 270 would act as a precedent for giving rise to similar claims, I am not aware of any similar claims now pending in this office. Cases of like character may have arisen without being brought to the knowledge of this office. The amount of such claims cannot, of course, be stated.

The claimant appears to have had ample time and opportunity for asserting his claim before this office, and, failing to receive what he considered justice from the Commissioner of Internal Revenue, he had a right of action in the courts, of which he did not avail himself.

Senator Cockrell's letter and Senate bill 270 are herewith returned.

Respectfully,

GREEN B. RAUM,
Commissioner.

Hon. JOHN SHERMAN,
Secretary of the Treasury, Washington, D. C.

Section 989 of the Revised Statutes United States is as follows, to wit:

When a recovery is had in any suit or proceeding against a collector or other officer of the revenue for any act done by him or for the recovery of any money exacted by or paid to him and by him paid into the Treasury, in the performance of his official duty, and the court certifies that there was probable cause for the act done by the collector or other officer or that he acted under the directions of the Secretary of the Treasury or other proper officer of the government, no execution shall issue against such collector or other officer, but the amount so recovered shall, upon final judgment, be provided for and paid out of the proper appropriation from the Treasury.

Your committee recommend that said bill be indefinitely postponed and the claim of said Conklin therein made be not allowed.

O

CONGRESS, } SENATE. { REPORT
Session. } { No. 306.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1880.—Ordered to be printed.

ELLER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 500.]

ommittee on Claims, to whom was referred the case of William L. ıms, late collector of customs at the port of Astoria, Oreg., submit the wing report:

ı case has been before Congress since 1866. Four reports have nade on it: three by a committee of the Senate, one by a commit- the House of Representatives.

r committee adopt the report made on behalf of the committee of nate, May 25, 1874, by Mr. Pratt, which was adopted by the com- ı at the last session, and is as follows:

case has long been before Congress. The memorial of Mr. Adams was first pre- December 6, 1866; again on the 7th of March, 1867; again on February 24, 1868; ll again on the 18th of March, 1874. On the 24th of February, 1868, Mr. Willey, ıe Committee on Claims, made an adverse report thereon, as follows:

"[Senate Report No. 57, 40th Congress, 2d session.]

"FEBRUARY 24, 1868.—Ordered to be printed.

r. WILLEY, from the Committee on Claims, submitted the following report:

'ommittee on Claims, to whom was referred a memorial for the relief of William L. ıs, together with sundry accompanying papers, have considered the same, and beg leave mit the following report:

ı said William L. Adams has been collector of customs for the district of Oregon une, 1861. He alleges that in pursuance of instructions from the Treasury De- nt he did, on the 23d of February, 1866, proceed to carry from Astoria, in Ore- San Francisco, in California, for the purpose of depositing there, with the States assistant treasurer, the money belonging to the United States then in ds. The amount of said money was $46,500 in gold coin, and $1,000 in currency. ıt on board the steamer Oregon, at Astoria, on the 3d of February, 1866. The ng is his own statement of how he made the voyage, what care he bestowed in ıg the money, and how he was robbed of a part of it:

ıring the voyage to San Francisco I kept the money in my trunk in my state- rhich I occupied alone. On reaching the Russ House in San Francisco, and ɔening my trunk, I found that out of $46,500 in United States gold coin, two ıne containing $12,500 and the other $8,000 had been taken out by some thief, d pried off a portion of the bottom of the trunk and then replaced it. Having icions when I left the steamer at the wharf in San Francisco that my trunk ɜn disturbed, I did not open it or lift it to see that the money was all there. nk was heavy, weighing, probably, over two hundred pounds, and I could not, ɔor state of health, lift it. The men who carried the trunk from my room on ımer to the Russ House coach acted as though it was still heavy enough to ıver two hundred pounds. During the entire voyage I was seldom absent from n, never leaving it except for my meals, walking on deck for exercise, &c., was careful to pass near or in sight of my room-door very frequently. I often much with cold while remaining in my room after dark. The money was

taken by the thief, as I have since learned, while I was at breakfast the morning before I reached San Francisco. The trunk was left tied up with cords, as usual, and nothing about its appearance indicated that it had been molested. I carried the key of my room constantly in my pocket while absent from it, and was always present when the waiter cleaned the room. I exercised all the vigilance I thought possible—all I would have exercised if it had been my own money.'

"This is Mr. Adams's own statement of his case under oath.

"The evidence leaves no doubt that the money was stolen, and that the amount stated was stolen. The thieves were subsequently arrested, and a part of the money recovered, as will be seen by reference to a letter from the Secretary of the Treasury here following, to wit:

"'TREASURY DEPARTMENT,
"'*February* 11, 1868.

"'SIR: I have the honor to acknowledge the receipt of your letter of December 19, 1867, in reference to the memorial of W. L. Adams, late collector of customs at Astoria, Oreg.

"'Mr. Adams prays for relief from Congress of all liability on account of money stolen from him while being transported to San Francisco, and, as a member of the Committee on Claims, to which the same was referred, you desire me to communicate any information in possession of the department as to the amount stolen, amount afterward recovered, and any other facts in the case material to the interests of the government or to the just rights of Mr. Adams, "with my opinion as to what would be just and equitable to be done in the premises."

"'In reply I can state generally that the arrest and confession of Lambert at New York, and of McElroy and Rogers at San Francisco, resulting in the recovery of some $8,300 of the stolen money, removes all doubt as to the fact of the robbery on the steamer Oregon in February, 1866, and corroborates the statement of Mr. Adams as to the amount having been $20,500 in gold coin. To a man in moderate circumstances the loss of so large a sum would naturally create much distress and embarrassment, but whether such a misfortune entitles the loser to relief from all pecuniary liability to the government involves other and different considerations; as—

"'1. Was the memorialist in the line of duty when the loss occurred, or was the journey undertaken and the risk incurred in violation of orders? (See letter of instructions, December 14, 1865, which by regular course of mail should have reached Astoria about the 10th of January, 1866.)

"'2. If the mail was delayed, and the order to remit by the express did not, as alleged, reach the collector's office until some days after he sailed, still, did not common prudence require that public treasure of so great value should have been packed in strong boxes, strapped with iron, instead of being thrown into a rickety trunk, with an insufficient lock, and tied only with a cord?

"'In explanation, Mr. Adams claims that he acted under express instructions, dated December 8, 1864, and October 20, 1865; that the order to remit *by express* had not reached his office when he sailed, nor until some six days thereafter; that he was forced to hurry on board the steamer in the night lest he should lose his passage, and that he took as good care of the money on the vessel as he could or would have done if all had been his own.

"'Copies of these different letters accompany the memorial, and of the sufficiency of Mr. Adams's explanation the committee must judge.

"'On arrival of the ship at San Francisco and the discovery of the loss by Mr. Adams, it appears he put himself in immediate communication with the city police, the United States marshal, district attorney, &c., and offered a reward of $3,000 for the recovery of the money. This was all any one could have done under the circumstances.

"'Lambert, represented as the principal robber, fled to New York, and was there arrested. In his possession were found $4,420 in gold, $2,000 in currency, and seven certificates of stock in mining companies in Nevada, estimated at little if any value. McElroy and Rogers, accomplices, were, meanwhile, arrested in San Francisco, and $6,100 in gold recovered from them. Out of this sum the police retained, as per agreement with Mr. Adams, $1,067.30, and paid over the balance, $5,032.70, to the district attorney, Delos Lake, esq., who, it appears, retained $1,000 of the fund for the payment of counsel fees, &c., and deposited with the assistant treasurer at San Francisco, to the credit of Mr. Adams, $4,032.70. Touching this the department was unadvised, and has been made acquainted with the facts stated only by the accidental discovery of a letter from Mr. Lake to Mr. Parker, of Astoria, dated San Francisco, October 2, 1866, found among the papers accompanying the memorial. The retention of $1,000 of the stolen money by the district attorney being unauthorized by law, he was instructed to deposit, without delay, the amount in coin as a credit to Mr. Adams, and I am pleased to say that the deposit has been made, and the late collector's indebtedness has been reduced by that amount. This explains the delay by this department in answering the call of the committee.

"'After considerable delay and litigation in the court in New York with parties claim-

ing to be assignees of Lambert, the district attorney, Mr. Courtney, with the concurrence of the Solicitor of the Treasury, acceded to a proposal of compromise, on the basis of an equal division, and deposited, as a credit to Mr. Adams, $2,210 in gold and $100 in currency. If anything is ever realized from the mining shares still on deposit in the court at New York, the proceeds are to be equally divided as above.

"'As soon as the alleged robbery of Mr. Adams was known here, Special Agent Gitchell, on the Pacific coast, was instructed to proceed to Astoria and make a full examination of the collector's office. On his return to San Francisco he reported at length under date of June 28, 1866; a copy of this report I herewith transmit. The committee will find the first part of this report quite satisfactory, showing a very creditable administration of the office, but the part relating to the payment of his own and his son-in-law's salaries in gold, and the sale of other large sums for currency, without corresponding credits to the government for the premiums received, is rather damaging to the collector as an accountant, if not as a faithful and upright officer. Though wholly unauthorized to sell any portion of his receipts as collector, yet, having assumed the responsibility, it was clearly his duty to report the facts and account for the premium received. He has made no such returns, and, in consequence, no such charge yet appears in his accounts. Irrespective of this item, the books of the Commissioner of Customs show balances against Mr. Adams as follows:

Coin account	$14,953 98
Currency	3,073 67
	18,027 65

"'If the sums recovered from the robbers had not been credited, his general account would have shown balances thus:

Coin	$22,196 68
Currency	3,173 67
	25,370 35

"'His actual loss on account of the robbery, on a coin basis (including expenses at San Francisco, $1,067.30, and excluding the $100 currency), may be stated separately thus:

Loss, gold coin		$20,500 00
Deduct amount received at New York	$2,210 00	
Deduct amount received at San Francisco	6,100 00	
		8,310 00
Net loss		12,190 00
Adding expense at San Francisco		1,067 30
		13,257 30

"'If relief shall be granted on the above basis, the whole loss in coin being covered, the $100 currency, with any amount eventually realized from the mining stocks, will inure to the credit of miscellaneous receipts, and Mr. Adams's general account will stand thus:

Balance due in coin	$14,953 98
Less, per act for relief, $12,190, or $13,257.30, or whatever sum Congress may allow	.....
Balance due in currency	3,173 67

"'These are the leading facts in this case, so far as known to the department. As to "what would be just and equitable to be done in the premises," I can only say that upon the whole I incline to the opinion entertained by Mr. Adams's friends in Oregon, that he is an upright, well-intentioned man, without much practical experience in business; that he possesses but little property, and feels greatly distressed by this unfortunate loss. They think he is entitled to public sympathy, and, with a view to an early and amicable settlement of his account, I commend his prayer for relief to the favorable consideration of the committee.

"'The memorial and accompanying papers are herewith returned, and I have the honor to remain,

"'Very respectfully, your obedient servant,

"'H. McCULLOCH,

"'*Secretary of the Treasury.*

"'Hon. W. T. WILLEY,

"'*Committee on Claims, United States Senate.*'

"The first question arising in this case is, had Mr. Adams, at the time he left Astoria, on the 3d of February, 1866, authority or instructions to go in person and deposit the

money with the United States assistant treasurer at San Francisco; or should he have availed himself of the usual means of sending it by express, and thus of securing to the United States the benefit of the liability of a common carrier for a failure of delivery?

"Mr. Adams files copy of a letter to him from Assistant Secretary Harrington, of the date of December 8, 1864, containing the following:

"'You are hereby directed to deposit *in person*, and without delay, the entire [amount] of money you may have on hand, on the receipt of this letter, due to the United States (less $1,000 to be retained for the contingent expenses of your office), with D. W. Cheeseman, esq., treasurer, at San Francisco.'

"He also files a copy of a letter from N. Sargent, Commissioner of Customs, of the date of 20th October, 1865, as follows:

"'SIR: Your official bond has been received, and your commission is herewith inclosed. Unless you have already divided your accounts, and deposited the balance due the United States, you will, on the 31st day of December next, close up your present series of accounts, deposit the balance due the United States with the assistant treasurer at San Francisco, and transmit the receipts for the same to this department, and commence a new series on the 1st day of January, 1866.'

"Mr. Adams also files a copy of a letter from William E. Chandler, Assistant Secretary of the Treasury, of the date of December 14, 1865, which, after requiring him to deposit, without delay, the balance in his hands with the assistant treasurer at San Francisco, contains this clause:

"'To effect this object with due precaution, you are authorized, after care yourself in the count of the money and properly securing it in a box of sufficient size and strength, to make the best terms you can, consistent with safety, with Wells, Fargo & Co.'s express agency for the transportation of this money to the office of the assistant treasurer at San Francisco, taking from said company a receipt for the amount, showing on the face of the receipt that the money belongs to the United States, that it is received for safe-keeping, transportation, delivery, &c.'

"It will be seen that the Secretary of the Treasury thinks that this letter, in due course of the mail, ought to have reached Astoria 'about the 10th of January, 1866.' But it is in proof, not only by the affidavit of Mr. Adams himself, that this letter did not reach Astoria until after he had left there with the money, as hereinbefore stated, but it is also so proven by the affidavit of W. W. Parker, deputy collector, who states in his deposition that—

"'On the 9th day of February (1866), six days after Mr. Adams left, an order from the department to send the money to San Francisco by express was received at the custom-house.'

"It would, therefore, seem that Mr. Adams, not having received this letter of Assistant Secretary Chandler of the date of December 14, 1865, prior to his departure on the 3d of February, 1866, with the money as above stated, might properly have regarded himself, at that time, authorized and required, under previous instructions, to go in *person* with the money to San Francisco.

"But a more serious question under the facts, as disclosed in this case, remains to be considered. Did Mr. Adams, in carrying this money, in person, to San Francisco, use the care, diligence, prudence, and discretion which a public officer in the discharge of such a duty ought to have used? We have already given Mr. Adams's own statement of the manner in which he cared for the money during the voyage from Astoria to San Francisco. He also files several depositions showing what he did, and what took place, and what the circumstances and surroundings were at the time he went on board the Oregon preparatory to his voyage. The following deposition is here inserted for information on these points. There is nothing in any of the other depositions that essentially or materially modifies the statements in this:

"'A. Morrison, special inspector for the district of Oregon, being first duly sworn, deposes and says that "at about nine o'clock p. m. on the 3d day of February, 1866, W. L. Adams, collector of customs for said district, called at the residence of E. A. Woodruff, in Astoria, where I was boarding, and requested me and Woodruff to go with him and Charles L. Parker, postmaster, to the custom-house in Astoria, to assist in carrying the government money on hand on board the steamer Oregon, then lying at the wharf at Astoria, which he said he had been ordered by the department at Washington to convey to San Francisco. Mr Adams said he had engaged a room of the purser to himself, and wished to convey the money on board as privately as possible, and deposit the same in his state-room that night, as Captain Dall said he wished to sail at daylight on the next morning. I went to the custom-house in company with Mr. Adams and E. A. Woodruff, where Mr. Adams unlocked the safe and took out four sacks, containing, as he said, forty-six thousand five hundred dollars in gold. I took a large sack, tied in the middle, said by Mr. Adams to contain $12,500. The sack was very heavy, and I should judge would weigh forty-five or fifty pounds. Mr. Woodruff took a lighter sack. I think it was a shot-bag, and should suppose it contained some eight or ten thousand dollars. Mr. Adams carried a long buckskin sack, containing, I should think, about the same amount of money the sack contained which Woodruff carried. Postmaster Parker carried a

k, heavier than either of the others. In passing the post-office, on our way to ıer, Mr. Adams's trunk and carpet-sack were taken out and carried on board egon. On reaching the foot of the stairs leading into the cabin, Mr. Adams a man I supposed to be the steward of the steamer, and asked for 'room H.' ard replied, 'That room is occupied.' Mr. Adams: 'I am the man who occu- engaged the room of the purser before I came on board the steamer.' The replied, 'There are already five men in that room; it is a room occupied by belonging to the ship. It is out of order and not a fit room for you.' Mr. Adams l great astonishment, and replied there must be some mistake about this, as r had assured him that room H was unoccupied and was a nice room, with erths in it. Mr. Adams then requested to see the purser, but was told that he ashore. He then requested to be taken to any unoccupied room, but was told ı none on the ship. During the time of this tedious delay the money, becom- y, was laid on the table to rest ourselves. By request of Mr. Adams I went hunt the purser, whom I found at the Monitor saloon. I requested him to board the ship immediately, as Mr. Adams wished to see him. The purser de- ne minutes, when he went on board the Oregon. The steward met the purser airs, where they had a short consultation, which I did not hear. The purser t into his office and the steward came downstairs. The steward then asked ıs why he would not take a room with another person. Mr. Adams said he e to do so, if he knew his room-mate to be a good man. The steward, or the ık to be the steward, showed him a room which he said was occupied by a to him, though a nice-looking young man. Mr. Adams concluded to take it, ɔms seemed to be all occupied by some one. On going with the trunk and the room pointed out by the steward I told Mr. Adams if I were in his place ıot take it, but would see the purser and know why he had told him a false- ut the room. My suspicions were aroused that there was something wrong. ıs assented, when we took the trunk and money back into the cabin, near the , when Mr. Adams said, 'I will see the purser myself.' Up to the time of de- he trunk and money in the room above mentioned, Mr. Adams, Parker, Wood- myself had remained constantly by the money, excepting the short time dur- ı I sought the purser on shore, leaving Mr. Adams, Parker, and Woodruff with y. On returning, Mr. Adams said the purser would soon have a room ready for ıould think that more than one hour had now elapsed since coming on board. or fifteen minutes' further delay, in which Mr. Adams manifested a good deal ence, we were told that the room was ready, when we—Mr. Adams, Woodruff, elf—carried the money to his room on deck (Postmaster Parker having re- ı his office), and placed it in Mr. Adams's trunk, where he locked it up; and Deputy Collector Parker, who had come on board at this time, remained with ruff and myself going ashore. On our way home I remarked to Woodruff that, appearance of things, I should consider it a miracle if Mr. Adams was not ıd murdered on that steamer. I thought that, in all my experience in the had not met with men who had worse-looking countenances than several I oard the steamer Oregon.'"

ı the evidence in the case, and the conduct of Mr. Adams, indicate nothing jus- ıy imputation upon his moral character as an honest and upright man, and arrant the opinion of him in these respects expressed in the conclusion of the letter of the Secretary of the Treasury, yet public policy, in the opinion of the e, requires that public officers must be held to a reasonably rigid accountabil- e faithful and efficient discharge of their duties while in office, so that the elfare shall not suffer from their negligence, indiscretion, or incapacity. And that the facts in this case show that Mr. Adams did not take that care and hat prudence and vigilance in his attempt to carry the money of the United his hands to the place where he was required to deposit it which a vigilant, and capable officer should and would have done, and that thereby the public as stolen from him, the committee are constrained, however much they regret o come to such a conclusion, and however sincerely they sympathize with Mr. ıd his friends in his misfortune, to recommend that the prayer of the said ought not to be granted, and to ask that the committee be discharged from er consideration thereof."

ı present session Mr. Adams has presented additional affidavits, the most mate- f which is that of William B. Watkin, who was at the time of the larceny e detectives attached to the police of the city of San Francisco, and which, susceptible of much abbreviation without detracting from its force, is here ıt length, and made part of this report:

OF CALIFORNIA,
City and County of San Francisco, ss:

iam B. Watkin, being first duly sworn, deposes and says as follows:

a resident *of the city of* San Francisco, Cal., and have lived in said city since ! *I remember the time of* the robbery of William L. Adams, on board the

steamer Oregon, on or about the 10th day of February, 1866. I was at that time, and had been for some years previous, one of the detectives attached to the police of said city. The following statement is what I recollect of the affair: On the morning of February 10, 1866, William L. Adams, collector of customs for the district of Oregon, came to the office of the chief of police in San Francisco and reported the robbery of $20,500 from a trunk in his state-room on board the steamship Oregon, on her passage from Astoria, Oreg, to San Francisco.

"'I. W. Lees, captain of detectives, H. H. Ellis, and myself repaired immediately to the Russ House with Adams, and there made an examination of the trunk which Adams had, on the arrival of the Oregon, conveyed there. In reply to questions, Adams stated that he had placed about $47,000 in coin and a quantity of greenbacks in the trunk in his office in Astoria, for the purpose of bringing the same to this city and depositing it in the sub-Treasury, and that the money was the property of the United States, having been received by him as collector of customs in Oregon. That during the voyage he carefully watched the trunk, and had never left his room while any person was in it; that he had always locked the door when he went out, and had never been absent from it many minutes; that on arriving in San Francisco he took the trunk with him in a carriage to the Russ House, and a few minutes after his arrival there he opened the trunk and discovered the loss of the money. He also said that the money was placed by him in canvas bags containing different amounts, and these bags and a large amount of currency, together with some clothing, were by him placed in the trunk (which was a common packing trunk), and he then bound the trunk with a cord, tying the cord with a peculiar knot; that on opening the trunk in the Russ House he found two of the bags, containing one $12,500 and the other $8,000, had been abstracted therefrom. Adams spoke of some passengers whom he suspected, and accompanied Captain Lees, Ellis, and myself to the wharf of the Pacific Mail Steamship Company; to see if they were aboard the steamer leaving that day for Panama. Not finding them, we went on board the Oregon and commenced a searching investigation of every one on board, from the captain down, but with no success. We then traced up to their various stopping places nearly every one of the few passengers, and at the close of the day (Saturday) we were pretty well satisfied none of the passengers were the guilty parties. The following day, Sunday, we again went to Adams's room in the Russ House, and commenced a severe and searching cross-examination of Adams, for a rumor had gained currency that Adams was himself the delinquent. He was asked the reason he did not forward the money by express or place it in the hands of the purser of the ship, frankly stating to him that persons trading with Oregon suspected him of robbing himself.

"'Adams seemed completely crushed at this statement at first; then became indignant, referring us to the Hon. O. C. Pratt, judge of the twelfth district court of California, who was, he said, his political enemy, but would, he was satisfied from his high character and sense of honor, do him the justice to state his belief in his integrity. That such report could only have emanated from parties connected with the Oregon and Mexican Steamship Company, two of whose steamships he had seized for smuggling and had condemned in United States district court of Oregon, and *that* was the reason he was afraid of trusting the purser with the money, as he was in their employ, and also being desirous of saving the expense of express-charges, he resolved to bring the money in person to San Francisco. Captain Lees then requested him to cord the trunk again in the same manner as before he left Oregon. This he did in our presence, tying the same peculiar knots as before, and on being asked if the same kind of knots were on it on its arrival at the Russ House he replied they were, and that was what puzzled him, as he never knew any one but himself make such knots, and he could not see how any person could open the trunk and tie it up the same again.

"'This induced me to make a critical examination of the trunk, when I discovered a mark on the end and bottom of the trunk looking as though made with a chisel, and a further examination revealed the fact that a portion of the bottom had been pried off one of the boards, which were about half an inch thick. Under the force of the implement employed, a piece about four inches wide at one end and not more than three at the other had been split off, forced aside without disturbing the cords, the money stracted, and the split piece restored to its place, where it fitted very tightly. On opening the trunk, we also saw where the paper-lining had been torn exactly in shape and form of the split piece. Adams, who had not noticed this, was amazed at the discovery and somewhat revived by it, as by it he saw at once our thoughts were turned in a different channel. Detective Ellis, having been a master mariner, proposed we should go down to the steamship Oregon again, and resume our search and investigation there. This we did, questioning every one on board, and making as thorough a search of the ship as could possibly be made, not omitting even the provisions, linen, and water-tank, also searched every place in the engine-room, boilers, and in fact every spot and place possible to hide the money in, not even neglecting the exterior, thinking possibly the thieves might have suspended it overboard with a line. The balance of this day, Sunday, February 11, was spent in this search, and in examining the hands aboard

the vessel, but with no results tending to an elucidation of the robbery. On Monday morning, the 12th, thoroughly satisfied the old man Adams had been robbed, and that some of the steamer's hands had done it, I started early down to the ship and arrested a young Scotchman, a waiter on board the vessel, named Andrew Young, who had been on watch the night before the vessel arrived in port, and had proceeded with him but a short distance when we were met by a young man named John Enson Lambert, an Englishman, about 23 years old, whom I recognized as a hand aboard the ship, but was ignorant of the fact that he had charge of the state-room occupied by Adams. Young stopped him and told him he was under arrest for robbing Adams. Lambert replied, "You know nothing about it any more than me," and passed on toward the ship. I asked Young what Lambert did aboard the ship, when he informed me he attended the state-rooms, including the one occupied by Adams.

"'I ordered Young to stand and remain where he was, and ran after Lambert, arrested and locked him in the same cell with Young. Once in there I was soon convinced Young knew nothing of the robbery, but deemed it best to detain him, which I did until the following Wednesday, when, convinced that he knew nothing of the real culprits, I discharged him, keeping Lambert until the following Saturday, thoroughly satisfied *he* was the man who either took the money or knew who did, but unable to hold him any longer without some actual proof.

"'I will here state we had all of us been particular in inquiring if any of the hands had left the ship when we went on board on Saturday, the 10th, but were assured they had not.

"'Nothing further of moment transpired to throw any light on the matter until the latter part of March, more than a month after the robbery. Meantime Adams, after paying the balance of the money into the subtreasury, returned to Oregon utterly broken down and nearly insane at the loss of the money. He was a very conscientious, honest, but unsophisticated man, utterly unused to the ways of the world, and the very last man to suspect any one of evil designs. He left with the sympathy of us all. I made inquiries about him of Hon. O. C. Pratt, who told me they were political enemies, but added if there was an honest man in Oregon it was William L. Adams.

"'After the 15th or 20th of March, Captain Lees received information that Lambert was going East on the steamship Moses Taylor, and also such further information as fixed the robbery on Lambert and the porter of the steamer beyond the shadow of a doubt. We repaired to the steamer on the day of her departure, and searched the ship for Lambert, but did not find him, although he was aboard, hid by one of the pantry-boys named Rogers, to whom he gave a portion of the stolen money.

"'After the steamer left port, Captain Lees learned further particulars, and telegraphed the chief of police in New York to arrest Lambert on his arrival at that port, and he was accordingly arrested on the 13th of April, 1866, and several thousand dollars found in his possession. He was detained at headquarters of police in that city until a requisition could be sent, Lees telegraphing at the same time to the United States district attorney in New York to attach and hold the money as the property of the government, which he did, and the money was finally turned over to the subtreasurer in New York. While action with regard to the affair was progressing in New York, the Moses Taylor returned to San Francisco, and Captain Lees arrested the pantry-boy Rogers, from whom he received about $500 in coin, and also learned that the porter of the Oregon, whose name was McElroy, had a portion of the stolen money. He was promptly arrested, and surrendered about $6,000 coin, which he had buried on the premises of a relation of his.

"'We now learned the manner in which the robbery was committed. Lambert took his slop-pail into Adams's state-room as if to clean up, opened the trunk, took the money and put it in the slop-pail, in the water, and covered it with dust and straw. He then took it to the porter McElroy's room, where it was concealed in a valise, and as quick as the steamer made fast to the wharf Lambert placed the valise in an express-wagon and took it to a sailor boarding-house, placed it under a bed, and returned to the ship before he was missed, and that night between 12 m. and 2 a. m. Lambert and McElroy took the money from the sailor boarding-house to the house of a man named McCauley, on Pacific street, and buried it in his stable, where it remained until Lambert's discharge from prison on the following Saturday, when a division of it was made, McCauley, it was said, receiving considerable of an amount. Captain Lees turned over to the United States subtreasurers in this city and New York, as I am informed and believe, about $10,000 in coin recovered from the within-named parties. I am further informed and believe that Lambert, shortly after his arrest in New York, broke jail and escaped to Philadelphia, was rearrested in that city and returned to New York, from whence he again escaped and was never retaken.

"'WM. B. WATKIN.

"'Subscribed and sworn to this 4th day of March, A. D. 1874, before me.

"'F. J. THIBAULT, Notary Public.

"The obligation of the bond which Adams gave as collector of customs required him to truly and faithfully execute and discharge all the duties of his office according to law. One of those duties, and the prominent one, was to safely keep the public moneys which came to his hands by virtue of his office, and to pay them over as instructed by the Secretary of the Treasury. Virtually he became an insurer of these moneys, and in an action at law we suppose nothing would excuse him from accounting for them except the act of God or the public enemy. That he has not a defense at law is the occasion of his appeal to Congress for relief on the supposed equity of his defense.

"We think it clear that he was under obligation to transfer this money from the custom-house at Astoria to the assistant treasurer at San Francisco, under the orders received from the Treasury Department of December 8, 1864. That order required him to deposit the entire amount of money he had on hand due to the United States, less one thousand dollars to be retained for the contingent expenses of his office, with Mr. Cheesman, the assistant treasurer at San Francisco. He was required to do this in *person and without delay*. He was not authorized to employ a guard or assistant, even, to accompany him and watch the treasure. Looking to the terms of the order, it is doubtful whether his account for the additional expense would have been allowed had such been employed; for it is evident that the department was intent upon economy in the transmission of the money, since there was an express company on that coast whose business it was to transport valuables and guarantee their safe delivery. This order to deposit in person seems to have been substantially repeated by the Commissioner of Customs in his letter of October 25, 1865.

"On December 14, 1865, the department seems to have reconsidered the subject and come to the conclusion that it was more prudent to send the treasure by express, even at enhanced cost; for on that day the collector was instructed to make the best terms he could, consistent with safety, with Wells, Fargo & Co.'s express agency, for the transportation of the money to the office of the assistant treasurer at San Francisco.

"It is evident from the testimony that this letter did not reach Astoria until Mr. Adams had embarked with the money on board the steamer on his way to San Francisco, pursuant to the order of the 8th of December. We are of opinion that, until the receipt of the letter of December 14, 1865, the collector was warranted in thinking himself bound to deposit the public money in person according to the instructions of the 8th of December, 1864. Whether Mr. Adams was the fittest man to be intrusted with such an amount of treasure, to go among strangers without any reliable assistant to divide with him the vigilance and care necessary to its safe transportation and delivery, may be questionable; but the department knew or had the means of knowing his qualifications for such an undertaking. All that the government could justly require of him was the exercise of the highest vigilance, care, and judgment of which he was capable. The weight of the money was 200 pounds, sufficiently great if placed in an ordinary trunk to attract suspicion as to its contents, even if the official character of Mr. Adams and his errand were susceptible of concealment. The trunk seems to have been a proper one and well secured. There is no evidence that a safe was kept on the boat for the deposit of treasure, and had there been one it is probable that the officers in charge would scarcely have made the boat and her owners responsible as insurers by receiving the money without exacting a premium commensurate to the risk and probably as high as the express company's charges, the very thing the department sought to avoid. Under these circumstances we think his state-room was as safe a place on board as the collector could find. But it is evident there were occasions when he must be absent from his room, and the trunk, for the time being, be left without his supervision. This was unavoidable. We see no reason to doubt the truth of the account he gave to the detective immediately after the discovery of his loss (two bags of coin, one containing $12,500, the other $8,000). The manner in which the money was abstracted by Lambert, the boat-hand who had charge of Adams's state-room, does not necessarily imply any carelessness on Adams's part. The theft was ingeniously planned and executed, and the most prudent man might have been plundered in the same way. The fact that Lambert escaped twice from prison in New York while under arrest for this transaction proves him to have possessed uncommon genius and resources as a thief and jail-breaker.

"Looking at the case as it is presented by this very full account of the way the larceny was committed and concealed, we cannot find sufficient evidence of carelessness on the collector's part to hold him responsible for the loss.

"Our view is strengthened by the recommendation of the Secretary of the Treasury. (See letter of Mr. McCulloch, *supra*.)

"The net loss of Mr. Adams was $12,190; his expenses at San Francisco were $1,067.30.

"The committee are of opinion that Mr. Adams should be allowed in the settlement of his accounts at the Treasury Department the amount of the money stolen from him, less the amount paid by him subsequently into the Treasury as recovered, and herewith report a bill for that purpose, and recommend its passage."

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 307.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1880.—Ordered to be printed.

Mr. HEREFORD, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 894.]

The Committee on Claims, to whom was referred Senate bill No. 894, *report as follows:*

This is a bill to authorize and require the officers of the Treasury to pay twenty per centum upon the gross amount of compensation received by the bailiffs, messengers, and criers of the United States courts for the District of Columbia in the same manner as certain employés of the government are provided for in the joint resolution of Congress approved February 28, 1867.

Said resolution reads as follows:

That there shall be allowed and paid to the following described persons now employed in the civil service of the United States at Washington, as follows: To civil officers and temporary and all other clerks, messengers, and watchmen, including enlisted men, detailed as such, to be computed upon the gross amount of the compensation received by them, and employés, male and female, in the Executive Mansion, and in any of the following-named departments or any bureau or division thereof, to wit: State, Treasury, War, Navy, Interior, Post-Office, Attorney-General's, Agriculture, and including civil officers and temporary and all other clerks and employés, male and female, in the offices of the Coast Survey, Naval Observatory, Navy-Yard, Arsenal, Paymaster-General (including the division of referred claims), Commissary-General of Prisoners, Bureau of Refugees, Freedmen and Abandoned Lands, Quartermaster's, Capitol and Treasury extensions, City Post-Office, and Commissioner of Public Buildings, to the photographer of Treasury Department, to superintendent of meters and to lamplighters under the Commissioners of Public Buildings, an additional compensation of 20 per centum on their respective salaries as fixed by law, or where no salary is fixed by law upon their pay, respectively, for one year from and after the 30th day of June, 1866.

This bill is based upon the theory that the officers referred to therein were included in said resolution, and that there is no appropriation to pay the same.

Such interpretation of the law cannot be maintained. In Huntington's case, 8 Court of Claims, Report 495, a similar question was decided against such views of the resolution.

Again, in the case of Phillips (11 Court of Claims, Report 570) the above-mentioned decision was affirmed.

The bill was referred to the Attorney-General of United States, and he is of the same opinion.

Your committee report adversely, and recommend the indefinite postponement of the bill.

O

6TH CONGRESS, 2d Session. } SENATE. { REPORT No. 308.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 26, 1880.—Ordered to be printed.

:r. BURNSIDE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 313.]

he Committee on Military Affairs, to whom was referred the bill (S. 313) for relief of Maj. Jacob E. Burbank, make the following report:

This is a bill for the relief of Maj. Jacob E. Burbank from certain dis-
epancies in his account while on duty as paymaster of the United
tates Army.

It would appear from the letters of the Paymaster-General and the
econd Comptroller, which are on file with the records of this case, that
ıe passage of this act would be a re-enactment of the law of June 23,
370. The law was a modification of the severe rules of accountability,
iving a large and unusual discretion to the accounting officers to give
ıch credit for losses of funds as they may deem just and reasonable.

Major Burbank was stationed at Omaha from November, 1868, to
ecember, 1871, under supervision of General Alvord as chief pay-
ıaster. The chief paymaster had observed the mental infirmities of
Iajor Burbank, but not until after General Alvord's return to Wash-
ıgton, December, 1871, was his attention called to the serious derange-
ıent of the major's mind. On the subject of his mental infirmities,
eports of the retiring board, before which Major B. appeared in 1874,
re on file; also the certificate of his physician who attended him in an
ttack of brain fever while stationed at Leavenworth, Kans., previous
) his being stationed at Omaha. Surgeons Cuyler and Moore sub-
ıitted their statements, giving as the cause of his mental weakness and
regularities "the probable softening of the brain." Senator Crozin,
ı a letter of February 7, 1874 (on file), testifies to his inability to add
r subtract a small column of figures.

From the records of the Paymaster-General's Office it appears that
here was a discrepancy between the weekly statements of Major Bur-
ank and those of the assistant treasurer in New York, for which a de-
osit covering the amount was duly made by Major Burbank's brother,
'ho was his surety. This discrepancy arose from the fact that the sum
f $2,000 was stolen from Major Burbank, paymaster, while at Fort D.
ı. Russell, in March, 1871, while on a tour for payment of the troops.
Ie had deposited the sum of $40,000 one night in the sutler's safe, as
'as his usual custom, there being no other safe depository at the fort,
nd took the keys and kept them in his possession. In counting his
ıoney after he had made his payments he discovered that $2,000 had
een stolen from him. He presumes there were duplicate keys to the
ıfe, of which he had no knowledge.

The records of the Paymaster-General's Office show that Major Burbank was on duty paying troops at Forts D. A. Russell, Laramie, and Fetterman from the 9th to 25th of March, 1871.

The Paymaster-General says: "It is true that owing to his peculiar mental condition Major Burbank was a fit subject for the wiles and villainies of any unscrupulous man." Some documents in the office give different data to the alleged robbery, but this discrepancy is considered due to the mental infirmities of the major. From all the circumstances, the Paymaster-General states his opinion that a robbery was committed, but by whom or at what precise date he cannot say, and adds: "It is due to him that I should say that I believe Major Burbank habitually did his best to guard and protect the public funds, and he always evinced zeal, industry, and fidelity in the discharge of his duties." He was permitted to travel in Europe previous to his appearing before the retiring board, and the result was the partial restoration of his health.

The Paymaster-General closes his report by saying that he thinks full credit can be given to the facts substantially as set forth in the affidavits accompanying his report.

In view of all these facts, substantiated as they are by letters and affidavits on file, your committee would make a favorable report, and recommend the passage of the bill.

O

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 309.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 27, 1880.—Ordered to be printed.

WALKER, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany bill H. R. 4244.]

: Committee on Public Lands, to whom were referred the bill (H. R. 4244) or the establishment of titles in Hot Springs and for other purposes, and lso the letter of the Secretary of the Interior transmitting the report of he Hot Springs Commissioners, submit the following report:

'he committee have been anxious, in arriving at a conclusion in this tter, to reach, as far as could be, a result that would be final. The gation about the Hot Springs has been long, tedious, vexatious, and tly. Above all things it seemed to the committee important to end completely, if possible. But few complaints have been made to the lings of the commissioners under the act of March 3, 1877, as to the sessory right to lots; and the committee have thought it proper to e in these cases a review of the findings in some way that would not erfere at all with the disposal of the other lots. To this end they have vided for a *certiorari* in the Court of Claims to the Interior Depart- nt to bring up the records and papers of the commissioners there de- ited for examination; and if, upon review, any of these findings are neous they are to be quashed; if not erroneous they are to be affirmed. commissioners are out of office, and no appeal proper could well be vided for, if it were desirable to do so. The method adopted by the mittee is plain, direct, inexpensive, and affords a remedy to those may be aggrieved by any findings by the commissioners as to the nt of possession under the act referred to.

[any complaints have been made as to the assessments fixed uponprop- by the commissioners. Of course the committee could not examine h case and determine as to this matter. But they have examined it in eral; and while they find the commissioners valued property at its ket value and price, and they could adopt no other rule, yet, in the nliar condition of the property there, it has been deemed advisable ecommend a reduction of these assessments in gross. It is perfectly n the government never intended to make money out of the occu- ts on that land; in many cases it is the only estate of the occupants; have held it under adverse circumstances for years, and their its have been for the last few years only nominal. The gross assess- nts, $223,000, taken from that place would well-nigh prostrate its iness, and would in many cases break the occupants. The govern- nt has been at some expense to inaugurate and carry out a plan to dis- justly of that *property*, and this expense should very properly be

paid by the property itself, and beyond reimbursing the government for its outlays in this behalf the committee think these assessments should not go. A reduction of 50 per cent. (one-half) upon the whole amount assessed will pay all these expenses and leave a surplus. And this reduction the committee think is fair and just, and have so provided in the bill.

The certificates issued by the commissioners for condemned property under the act of March 3, 1877, are of course to be paid at some time by the government, and this would require an appropriation and outlay of money. To avoid this, and to simplify the transaction, the committee think it better to take up these certificates as far as can be done in the payment of lots set apart to persons on preference right under that act, and they have so arranged it in the bill presented. In effect it is just the same to the government, and it is more direct and expeditious, in that it does not require payment in money from the owner, and then waiting by him for the government to take up his certificate with money.

With many conflicting interests at the Hot Springs, and almost as many different views urged and asserted before the committee, they have agreed on this plan, after long and anxious consideration, having before them all the time the equities of the people claiming property there under the act of March 3, 1877, and the rights of the government as well. With a wish to do justice between all, and end this matter without further trouble and delay, the committee report this bill, believing its passage will secure the desired object.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 310.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 27, 1880.—Ordered to lie on the table and be printed.

Mr. VEST, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

Upon January 15, ultimo, the Senate referred to the Committee on Public Buildings and Grounds the following resolution:

IN THE SENATE OF THE UNITED STATES,
January 15, 1880.

Whereas a difference of opinion exists between the officers of the Senate and House of Representatives in regard to the allotment of the rooms in the Capitol lately occupied by the Court of Claims: Therefore,

Resolved, That the Committee on Public Buildings and Grounds of the Senate be instructed to examine into the rights of the Senate as to said rooms, to confer with the Committee on Public Buildings and Grounds of the House of Representatives, and to report by bill or otherwise.

Attest:

JOHN C. BURCH,
Secretary.

The committee have had the same under consideration, and having examined fully into all the facts beg leave to report as follows:

The Court of Claims originally occupied eight rooms in the basement of the main building of the Capitol. Five of these rooms were on the southern or House side of the passage running west from the rotunda and three were on the northern or Senate side of the passage. Prior to July, 1879, the Court of Claims permitted the House of Representatives to use, temporarily, three of the rooms on the southern or House side, but this occupancy by the House was simply by courtesy, the rooms remaining, in contemplation of law, in the possession of the court. This was the condition of affairs on July 1, 1879, when Congress adopted a "Joint resolution in relation to committee clerks, pages, and other employés of the Senate and House of Representatives, and for other purposes," in which an appropriation of two thousand dollars was made for "arranging and furnishing, as committee rooms, for the use of the Senate and House, to be allotted equally as nearly as practicable, the rooms in the Capitol now occupied by the Court of Claims."

Under this resolution the House of Representatives claims that the House is entitled to one-half of the five rooms vacated by the Court of Claims, in addition to the three rooms on the southern side of the passage already occupied by its committees.

The committee are of opinion that this claim is unfounded and should not be allowed. The term *occupied*, as used in the joint resolution of July 1, above set forth, has a definite, legal meaning, and although the House of Representatives may have had actual use of three rooms on the southern side *of the passage* at the time the resolution was adopted,

yet, as the facts show that this was temporary and at the pleasure of the court, and the legal possession was with the Court of Claims, it is very evident that the words used in the resolution do not sustain the construction given them by the House.

The joint resolution evidently means by the terms "allotted equally" an equal division of the eight rooms belonging to the Court of Claims, and the committee therefore report that the Senate is entitled to the use and occupation of the rooms on the northern side of the passage leading west from the rotunda in the basement of the main building of the Capitol, and now occupied by Senate committees, and ask to be discharged from further consideration of the resolution to the committee referred.

O

6TH CONGRESS, 2d Session. | SENATE. | REPORT No. 311.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 27, 1880.—Ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 489.]

The Committee on Military Affairs, to whom was referred the bill (S. 489) for the relief of James P. Worrell, having considered the same, report as follows:

James P. Worrell was a captain of Company B, Eighty-sixth Illinois Volunteers, in the war of the rebellion; that prior to the 6th day of June, 1865, the said Worrell had been detailed from his company and regiment for duty in the subsistence and quartermaster's departments as acting commissary of subsistence and acting assistant quartermaster, in which duty he continued until the 22d day of July, A. D. 1865, having in his possession during all said period a large amount of commissary and quartermaster stores, for which he was responsible; that on the 6th day of June, A. D. 1865, the Eighty-sixth Illinois Regiment was mustered out of the service by virtue of an order of the War Department, which order was not communicated to the said Worrell, who had no official or other knowledge of the same; that on the 22d day of July, 1865, said Worrell then being in the service of the government as commissary and quartermaster as aforesaid, was, by virtue of the following order, relieved from duty:

[Special Order No. 25.—Extract.]

HEADQUARTERS MILITARY DIVISION OF TENNESSEE,
Nashville, Tenn., July 18, 1865.

The following-named officers are hereby relieved from duty in the subsistence department at these headquarters, and will report to the chief mustering and disbursing officers of their respective States for muster-out of service.

* * * * * * *

Capt. James P. Worrell, Eighty-sixth Illinois Infantry Volunteers, at Springfield, Ill.

By command of Major-General Thomas.

HENRY M. CIST,
Assistant Adjutant-General.

That immediately upon the receipt of said order Captain Worrell proceeded to turn over the public moneys, property, and effects of the United States in his hands to Capt. C. S. Garfield, commissary of subsistence and acting assistant quartermaster, and without any unnecessary delay reported at Springfield, Ill., to Brig. Gen. James Oakes, commanding headquarters *superintendent* volunteer recruiting service of Illinois, to

whom he applied to be mustered out of service; that on the 3d day of August General Oakes issued the following order:

[Special Order No. 15.—Extract.]

HEADQUARTERS SUPERINTENDENT VOLUNTEER
RECRUITING SERVICE OF ILLINOIS,
Springfield, August 3, 1865.

V. Capt. J. P. Worrell, Eighty-sixth Illinois Infantry Volunteers, having reported at these headquarters for muster-out of service in pursuance of Special Orders No. 25, Headquarters Military Division of the Tennessee, dated July 18, 1865, will proceed to Chicago, Ill., reporting to Capt. Charles C. Pomeroy, mustering and disbursing officer, who will muster him out of service, if, upon examination, he is found entitled to be mustered out. The Quartermaster-General will furnish the necessary transportation.

* * * * * * *

By order of Bvt. Brig. Gen. James Oakes.

JOHN F. CLEGHORN,
Captain and Acting Assistant Adjutant-General.

That on reporting to Captain Pomeroy at Chicago, pursuant to said order, he was informed that he, the said Worrell, had been discharged "with his command" as of date June 6, 1865, and consequently he, said Pomeroy, could not lawfully muster him, said Worrell, out of the service, and advised him to go to his home, which he proceeded to do.

After the lapse of about six months Worrell received from the colonel of his regiment his discharge, dated June 6, 1865.

On the 27th day of March, 1867, Captain Worrell had completed the settlement of his accounts with the Treasury Department on account of army supplies, with which he had been charged, and was on that date paid in full to June 6, 1865, the date of the muster-out of his command. Immediately thereafter Captain Worrell applied to the Adjutant-General of the United States Army for a new discharge, to date corresponding with the time according to which he had actually left the service of the government. This was refused on the ground that the regulations of the Quartermaster's Department preclude the retention of an officer after the muster-out of his proper command.

Captain Worrell has renewed his application to the Adjutant-General since, but without effect, and has had an application to Congress for many years pending.

The committee believe Captain Worrell entitled to pay and allowances from the 6th of June, 1865, to the 3d of August, 1865, the date when he reported at Springfield, Ill., for muster-out, in accordance with the order relieving him from duty, and also to be paid the expenses of his transportation, and therefore recommend the passage of the bill with an amendment.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 312.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 27, 1880.—Ordered to be printed.

Mr. GROOME, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1071.]

The Committee on Pensions, to whom was referred the bill (S. 1071) granting a pension to George Wilie, report the same back with a recommendation that it do not pass, for the reason that the claim of the said George Wilie is now pending before the Pension Bureau, and awaiting the receipt of necessary testimony to complete the same, which, although called for by said bureau, has not been furnished.

O

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 313.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 27, 1880.—Ordered to be printed.

Mr. GROOME, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Martin J. Deponai, late private in Company E, Eightieth New York Volunteers, asking for an increase of pension, respectfully report:

That the petitioner is greatly disabled from the effects of a gunshot wound in the right breast, received on or about August 26, 1862; but as he is now receiving a pension of $8 a month, the full amount allowed by the general law for such disability, your committee do not feel justified in recommending that a special act be passed for his relief, and ask to be discharged from the further consideration of his petition.

O

ONGRESS, } SENATE. { REPORT
Session. } { No. 314.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 27, 1880.—Ordered to be printed.

NES, of Florida, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany bill S. 464.]

mmittee on Public Buildings and Grounds, to whom was referred onsideration Senate bill 464 for the erection of a public building at tgomery, Ala., beg leave to report as follows:

tgomery is the capital of Alabama, situated near the head of tion on the Alabama River, which is navigable for large-sized hence to Mobile Bay. It is in the midst of the rich cotton-grow- gion of the State, has railroads running into it from five different ons, and another recently-projected railroad will probably soon be eading from it directly south. Its trade, and its population now ted at about eighteen or twenty thousand, are rapidly increasing. the past cotton-year, it received 134,000 bales of cotton. Its s from September 1, 1879, to December 12, 1879, were 86,000 and it is estimated that during the current year the receipts will 145,000 bales, which, at present prices, would yield about seven and millions of dollars.

United States courts for the middle district of Alabama are held and sit for more than four months in each year.

post-office is also in a rented building. The receipts at said post- for the last fiscal year were about $18,000. During the first r of the present fiscal year such receipts increased about 20 per ver the corresponding quarter of the preceding year, showing e receipts will probably reach more than $20,000 for the current

United States land-offices for the register and receiver are in a n shingled-roof building, with other small buildings near by; and ds but little security for the valuable and extensive records.

rents now paid by the government for these offices are—

oms	$1,500
ice	1,000
l-revenue office	350
fices	480
Corps	216
	3,546

se rents expire shortly; and rents have advanced in the city of omery, since the present contracts were made, 25 or 30 per cent.,

and with the expected rapid increase in the trade and population of city, will probably further advance.

It also appears from the evidence submitted to us that the pre court rooms and offices, though they are the best that can be ha Montgomery, are unsuitable for the purposes.

The committee therefore recommend the passage of the accomp bill as amended.

○

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 315.

IN THE SENATE OF THE UNITED STATES.

MARCH 1, 1880.—Ordered to be printed.

Mr. FARLEY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1384.]

The Committee on Pensions, to whom was referred the petition of Reese Lammey, praying for a pension, beg leave to report:

That the evidence in this case shows that the son of petitioner, John R. Lammey was killed while serving in the line of duty as captain in Company D, Sixth Regiment Wisconsin Volunteers; that the son assisted materially in supporting his father and mother both before and after he entered the service; that the mother has since died; that the claimant is now about seventy years old; that he is poor and capable of performing but little work.

Your committee, therefore, recommend that the petitioner be allowed $8 per month from the passage of the accompanying bill.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 316.

IN THE SENATE OF THE UNITED STATES.

MARCH 1, 1880.—Ordered to be printed.

Mr. FARLEY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 251.]

The Committee on Pensions, to whom was referred the bill (S. 251) granting increase of pension to Margaret Mills, widow of Madison Mills, deceased, late a surgeon in United States Army, beg leave to report:

It appears from the papers in this case that Surgeon Mills enlisted as Assistant Surgeon United States Army in 1834, was promoted to surgeon in 1847, and died in 1873, in New York City.

He suffered from injuries on the march, and from severe exposure during the Mexican war, which injuries and exposure were the remote cause of his death. In 1874, the widow applied for and obtained a pension of $25 per month, dating from the death of her husband, and she is now on the rolls at that rate, it being the rate allowed by general law to the widow of an officer of that rank. There does not appear to be any special reason in this case to take the claim from the general law and make it exceptional. Your committee therefore recommend that the bill do not pass.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 317.

IN THE SENATE OF THE UNITED STATES.

MARCH 1, 1880.—Ordered to be printed.

Mr. FARLEY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 183.]

The Committee on Pensions, to whom was referred the bill (S. 183) granting a pension to Hugh Gallagher, late a wagoner of Company H, Sixth Regiment United States Cavalry, beg leave to make the following report:

It appears from the Adjutant-General's report that claimant enlisted August 5, 1861, to serve three years, and was discharged August 5, 1864, at expiration of service. He is reported present from July, 1862, to April, 1864, though claimant alleges he was injured in battle from a sabre-cut across the right temple in June, 1863. His declaration was filed in the Pension Office in December, 1870, and was rejected in January, 1874, as claimant alleged it was impossible to obtain evidence of officers or others cognizant of his injury. Subsequently he filed the affidavits of two comrades, but the claim was then barred by the statute of limitation (section 4717, Revised Statutes), which provides that no claim for pension not prosecuted to a successful issue within five years from the date of filing the same shall be admitted without record evidence from the War or Navy Department of the injury, provided, however, that claimant may have the privilege to introduce evidence to change said record; whereupon if such evidence should prove sufficient to change such record, the bar is thereby removed and the claim may again be prosecuted. Claimant introduced the evidence of two comrades to correct the record, but the Adjutant-General decided that the evidence was not sufficient to change the record. The claim was thereupon again rejected as barred by the statute.

Notwithstanding the many years that have elapsed since the claim was filed, the evidence offered is insufficient as showing the character or amount of disability. There is no record in the Adjutant-General's Office or Surgeon-General's Office of any injury or treatment. No evidence of a family physician or pension surgeon is furnished as to disability. It is simply alleged that a "lump" on the temple exists as the result of a saber-cut, which incapacitates him for severe labor in his occupation as a brickmaker. The statute of limitation having been repealed, he may make another application to the Pension Office. Your Committee therefore recommend that the bill do not pass.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 318.

IN THE SENATE OF THE UNITED STATES.

MARCH 1, 1880.—Ordered to be printed.

Mr. FARLEY, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Daniel Houlihan, praying for arrears of pension, beg leave to make the following report:

The petitioner enlisted in the Eighty-second New York Volunteers, in May, 1861, and served till March, 1864. He re-enlisted immediately after his discharge, and served till June 30, 1865. During his second term of service he was captured by the enemy, and after being exchanged returned to his regiment and served till his discharge. He alleges general debility and affection of heart and lungs while a prisoner. It does not appear that petitioner made application for a pension at the Pension-Office, but applied to Congress direct; and on March 3, 1877, a special act was passed directing his name to be placed on the pension-roll, subject to the provisions of the pension laws. Whereupon, an examination of a board of surgeons was ordered by the Commissioner of Pensions, and petitioner was reported as suffering from general debility, which could be traced to no definite source, and would probably yield to treatment; and, further, that the heart and lungs were sound. He was allowed pension for one-fourth debility from date of passage of act.

From all the facts in the case, your committee recommend that the prayer of petitioner be denied.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 319.

IN THE SENATE OF THE UNITED STATES.

MARCH 2, 1880.—Ordered to be printed.

Mr. BURNSIDE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 319.]

The Committee on Military Affairs, to whom was referred the bill (S. 129) authorizing the restoration of the name of Thomas H. Carpenter, late Seventeenth United States Infantry, to the rolls of the Army, and providing that he be placed on the list of retired officers, have had the same under consideration, and beg leave to submit the following report:

Captain Carpenter was appointed a first lieutenant in the Seventeenth United States Infantry May 14, 1861, and was promoted a captain on the 4th of May, 1863; brevetted major for gallant conduct at the battle of Gettysburg, where he was wounded. From the date of that battle to January, 1864, he was in the hospital on leave. He was on duty in Iowa as provost marshal from January, 1864, until September 14, 1864; and from this last date on recruiting duty in Maine until August 15, 1865, when he applied to go before the retiring board, but was found "*not incapacitated for the performance of the active duties of his office in the field.*" He again joined his regiment on the 6th of October, 1865, and immediately after was granted twenty days' leave of absence by his department commander, and remained absent until the latter part of November, 1865. On the 10th of December he applied for thirty days' leave of absence on surgeon's certificate, which was not granted. In January, 1866, he applied again to go before a retiring board, was examined February 19, 1866, and was again found "*not incapacitated for active service,*" and ordered to rejoin his regiment. On the 21st of February, 1866, he tendered his resignation, to take effect March 1, 1866, which was accepted.

On the 17th of June, 1868, he applied to the President of the United States to be reinstated in the Army, upon the ground that his health had been restored. This application was not granted. On July 10, 1868, he submitted another application to be reinstated as captain, "*for the express purpose of being retired.*" Upon the latter request, he was authorized to appear for examination before the retiring board in session in New York City, which board reported that "*if Mr. Carpenter was an officer of the Army his disability would not entitle him to be retired, as his wounds do not disable him from actice service.*"

Your committee, in view of the above authenticated facts, are of the opinion that this officer has been treated with proper consideration, and

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 320.

IN THE SENATE OF THE UNITED STATES.

MARCH 2, 1880.—Ordered to be printed.

Mr. BURNSIDE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 93.]

The Committee on Military Affairs, to whom was referred the bill (S. 93) to authorize the restoration of Charles N. Warner to his former relative rank and position in the Army, have had the same under consideration, and beg leave to submit the following report:

It seems that the reduction of the Army in 1869 left a large number of supernumerary officers, who were provided for in the way of retirement or discharge by the act of July 15, 1870. Section 12 of that act says:

> That the President is hereby authorized to transfer officers from the regiments of cavalry, artillery, and infantry to the list of supernumeraries. * * * And if any supernumerary officers shall remain after the first day of January next [1871], they shall be honorably mustered out of the service with one year's pay and allowances.

Under this section the President directed the transfer and muster-out of Lieutenant Warner, and upon examination of the reports and the action of the board which led to the action of the President, your committee do not feel warranted in recommending his reinstatement. The letters of his superior officers touching his case on file in the War Department and upon which also the action of the President was based are of such a character as to make it impossible for your committee to come to any other conclusion than that his retirement from the Army was just and fair. All the papers touching this case, and from which this examination was made, accompanying this report, but are not printed, as it would make it too voluminous. They can be referred to readily when the case comes up for consideration.

Your committee, therefore, report adversely upon this bill, ask to be discharged from its further consideration, and recommend that it be indefinitely postponed.

they believe that the passage of the bill would be very unwise and improper.

The committee therefore report adversely upon the bill, ask to be discharged from its further consideration, and recommend its indefinite postponement.

O

H CONGRESS, 2d Session. } SENATE. { REPORT No. 320.

IN THE SENATE OF THE UNITED STATES.

MARCH 2, 1880.—Ordered to be printed.

BURNSIDE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 93.]

Committee on Military Affairs, to whom was referred the bill (S. 93) authorize the restoration of Charles N. Warner to his former relative nk and position in the Army, have had the same under consideration, d beg leave to submit the following report:

seems that the reduction of the Army in 1869 left a large number of ernumerary officers, who were provided for in the way of retirement ischarge by the act of July 15, 1870. Section 12 of that act says:

at the President is hereby authorized to transfer officers from the regiments of lry, artillery, and infantry to the list of supernumeraries. * * * And if any rnumerary officers shall remain after the first day of January next [1871], they be honorably mustered out of the service with one year's pay and allowances.

nder this section the President directed the transfer and muster-out Lieutenant Warner, and upon examination of the reports and the on of the board which led to the action of the President, your com- ee do not feel warranted in recommending his reinstatement. The ers of his superior officers touching his case on file in the War De- tment and upon which also the action of the President was based are uch a character as to make it impossible for your committee to come ny other conclusion than that his retirement from the Army was just fair. All the papers touching this case, and from which this exam- ion was made, accompanying this report, but are not printed, as it ld make it too voluminous. They can be referred to readily when case comes up for consideration.

our committee, therefore, report adversely upon this bill, ask to be harged from its further consideration, and recommend that it be finitely postponed.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 321.

IN THE SENATE OF THE UNITED STATES.

MARCH 2, 1880.—Ordered to be printed.

Mr. BURNSIDE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 664.]

The Committee on Military Affairs, to whom was referred the bill (S. 664) for the relief of Lieut. Col. Schuyler Hamilton, late of the United States Army, having had the same under consideration, beg leave to submit the following report:

General Hamilton is entitled to great consideration, both for his services in the Mexican war, in which he was severely wounded, and in the late war; but as he voluntarily resigned from the Army, your committee cannot recommend his reappointment to that branch of the public service with a view to retirement.

There seems to be no difference between his case and hundreds of others, and the passage of this bill would certainly be establishing a dangerous precedent.

Your committee, therefore, report adversely upon the bill, ask to be discharged from its further consideration, and recommend that it be indefinitely postponed.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 322.

IN THE SENATE OF THE UNITED STATES.

MARCH 2, 1880.—Ordered to be printed.

Mr. BURNSIDE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 821.]

The Committee on Military Affairs, to whom was referred the bill (S. 821) fixing the compensation of enlisted men in the Signal Service, United States Army, beg leave to submit the following report:

Your committee see no reason for the passage of this bill. If the pay of the enlisted men in the Signal Service is not sufficient it should be increased in the regular way, and not by allowing pay for extra duty.

Your committee, therefore, ask to be discharged from its further consideration, and recommend its indefinite postponement.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 323.

IN THE SENATE OF THE UNITED STATES.

MARCH 2, 1880.—Ordered to be printed.

Mr. BURNSIDE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1395.]

The Committee on Military Affairs, to whom was referred the petition of Perry E. Brocchus, administrator of the estate of Augustin Maurin, deceased, praying the passage of a law authorizing payment of the amount of a draft for five hundred dollars, drawn by Col. John B. Grayson, acting commissary of subsistence, United States Army, at Santa Fé, N. Mex., May 4, 1861, for supplies furnished United States troops, and which draft is alleged to have been lost, have had the same under consideration, and beg leave to submit the following report:

After a full and careful examination of this petition your committee adopt the favorable report made by the Committee on Military Affairs of the last Congress, which is as follows:

The record shows that on the 4th day of May, 1861, Col. John B. Grayson, then acting commissary of subsistence for the Military Department of New Mexico, drew a check or draft on the assistant treasurer at New York for $500, in favor of and payable to the order of Lieut. W. B. Lane, United States Army, acting assistant commissary of subsistence, which draft or check was paid out in the course of official duty by said Lane to R. P. Kellogg at Fort Fillmore, in New Mexico, in payment for supplies furnished for the use of troops, and that the draft passed by indorsement through several hands until it reached and became the property of Augustin Maurin, on behalf of whose estate this petition is made. This check or draft was lost in transmission through the mails and was never paid.

It further appears that the check was presented at the subtreasury in New York in March, 1863, and payment was refused, upon the ground that the same "was not authorized"; and that thereupon Mr. Maurin transmitted the check by mail to Mr. Mercier, the French minister at Washington (Maurin being a citizen of France, and in no wise engaged on behalf of the late Confederacy or complicated therewith), in order that Mr. Mercier might use his official influence to obtain payment, but the check never reached him, and was lost or mislaid in the mails.

It also appears the delay in the presentation of the draft or check from May 4, 1861, to March, 1863, was owing to the capture by the Confederate forces of the Mesilla Valley, in New Mexico, where Mr. Maurin lived, cutting off all communication, by mail or otherwise, from New York for more than a year, and that, so soon as was possible, Mr. Maurin forwarded the check to August Belmont & Co., at New York, for collection, with the result as above stated.

Upon this claim being presented to the accounting officers of the Treasury, its equities and justice were admitted, but the Second Comptroller held that inasmuch as Colonel Grayson had subsequently joined the Confederate cause, and that at the date thereof he only having $222.25 to his credit at the assistant treasurer's office, the draft could only be paid to that extent and no more. This, although it was conceded that at the time of the drawing of the check it was drawn against funds absolutely to his credit in *due course of official business*, and that the same was properly paid out for supplies *and duly accounted for by* Lieutenant Lane, and had legally passed into the pos-

session of Maurin for value. Payment of this check, as will be seen from the following official documents, was recommended, in May, 1866, by General Shiras, Assistant Commissary-General of Subsistence, and Hon. John Wilson, Third Auditor of the Treasury.

OFFICE COMMISSARY-GENERAL OF SUBSISTENCE,
Washington City, May 5, 1866.

SIR: I have the honor herewith to inclose the claim of Augustin Maurin, with all the papers received relative thereto, for the payment of $500, the amount of a check alleged to have been numbered 1728, dated "Santa Fé, N. Mex., May 4, 1861," and drawn by Col. J. B. Grayson, commissary of subsistence, on the assistant treasurer of the United States at New York, in favor of Lieut. W. B. Lane, acting commissary of subsistence, and by said Lieut. W. B. Lane indorsed and transferred to R. P. Kelley in payment of purchase of subsistence stores in the month of June, 1861; said check, numbered and described as above, as is alleged, having been subsequently indorsed by said R. P. Kelley and sold to Gillett & Cochran, and by them indorsed and paid over to Buchoy Grandjean & Co., by whom it was sold without their indorsement to the present claimant, Augustin Maurin, by whom it was indorsed, and, as is alleged, while still his property, lost in the mail *en route* from New Mexico, in 1863, and respectfully invite your attention to the letter of Bvt. Lieut. Col. W. B. Lane, the statements of which are corroborated by the returns of Capt. W. B. Lane, Third United States Cavalry, second quarter, 1861, so far as that he therein acknowledges to have received from Col. J. B. Grayson, commissary of subsistence, May 11, 1861, $30,000, and on the 18th June, 1861, purchased from and paid to R. P. Kelley for 11,760 pounds of flour, at 12c., $1,411.20, as per voucher No. 4, abstract of purchase; and respectfully recommend the payment of the amount of said draft, should it appear from the books of the Treasury Department that said draft itself has not been paid, upon the said Augustin Maurin filing an indemnity bond holding the United States free from all loss by the presentation or payment of the said draft itself.

Very respectfully, your obedient servant,

A. E. SHIRAS,
Assistant Commissary-General of Subsistence.

Hon. JOHN WILSON,
Third Auditor, Treasury Department.

TREASURY DEPARTMENT,
Third Auditor's Office, May 9, 1866.

SIR: I have the honor to transmit herewith the papers in the claim of Augustin Maurin, of Mesilla, N. Mex., for the recovery of $500, the amount of a lost check, for your decision.

In 1861 Col. J. B. Grayson, commissary of subsistence, drew a check, No. 1728, for $500, with several others of similar amounts, in favor of Lieut. W. B. Lane, Mounted Rifles and acting commissary subsistence, on the assistant treasurer at New York. This check was indorsed by Lieutenant Lane, and passed to R. P. Kelly in payment for flour, and by him transferred by indorsement to Gillett & Cochran, and by them to Buchor Grandjean & Co., by whom it was sold and delivered to the present claimant without their indorsement.

Some time after the issuing of the checks to Lieutenant Lane, Colonel Grayson resigned his commission and joined the Confederate or rebel service. The funds to his credit with the assistant treasurer at New York were withdrawn by the government. The rebels took possession of and held and occupied Mesilla, the residence of the claimant, and no communication with the loyal States, as is alleged, could be had for a year and upward.

In 1863 the claimant, through August Belmont & Co., presented the check to the assistant treasurer at New York, who refused payment. It was returned to him in New Mexico, and by him transmitted to the French minister at Washington to secure its payment (as Mr. Maurin is a citizen of France), and was lost, as alleged, in the mail between the Territory and the place of its destination. The letter reached the French minister, but the check was missing—supposed, as represented by Hon. Mr. Chaves, Delegate from New Mexico, who has charge of the claim, to have been abstracted by a person who had committed similar depredations on the mails, and afterwards fled to Canada.

There is nothing in the evidence conflicting with or tending to throw a doubt over the title of Maurin to the check; but as it is not presented, and the last preceding indorsees sold and transferred it without indorsement, the ownership, of course, is not as conclusively established as if he had the possession of it. His title, however, is supported by his own statement under oath, and corroborated by evidence as satisfactory as it could be under the circumstances of the case.

The first indorsee, Kelley, is dead, and Gillett & Cochran, his indorsees, have removed from the Territory. Maurin testifies to his ownership, and details the history of the check while controlled by him, and until mailed by the French minister. Frank Higgins testifies he has the possession of Kelley's books, and from his memory and knowledge believes the charge in Kelley's books, paid "Cochran $500," to mean a payment with this check—made June 24, 1861. Jules H. Jeanveralt testifies he was a partner of Buchoy, Grandjean & Co., indorsees of Gillett & Cochran, and in June or July, 1861, they sold and transferred the check, without indorsement, to Augustin Maurin. Captain or Brevet Lieutenant-Colonel Lane reports that his check-book shows that he gave the check No. 1728, for $500, to Kelley in payment for commissary stores, and although he cannot trace it further, he believes the claim of A. Maurin to be correct. The Commissary-General of Subsistence states that the stores for which it was given were taken up and accounted for in Colonel Lane's account, and recommends its payment, if the books of the Treasury show that it has not been paid.

To indemnify and save harmless the government, should the check be presented hereafter and paid, the claimant files a bond signed in his name by his attorney in fact and two sureties. The power of attorney, without particularly specifying the signing of the bond, confers general powers to do everything needful and necessary to be done, and is believed to be ample for that purpose.

Upon a review of all the evidence in the case, the recommendation of the Commissary-General of Subsistence, and the bond of indemnity filed, the conclusion of this office is, that the amount of the check should be paid to the claimant.

Respectfully submitted.

JOHN WILSON, *Auditor.*

Hon. JOHN M. BRODHEAD,
Second Comptroller.

Notwithstanding these recommendations for payment of the check, and the filing of a satisfactory bond of indemnity, Secretary McCulloch approved the adverse decision of the Second Comptroller, which, while it freely admitted the integrity of the claim, the non-payment of the check, and the ownership of Mr. Maurin, denied its legality upon the technical proposition that the check, not having been presented in due time to reach the funds against which it was drawn, should only be paid to the extent of the funds remaining to the credit of Colonel Grayson, he having deserted to the Confederate cause.

The Third Auditor of the Treasury, having been addressed by your committee for the papers and facts in the case, replies as follows:

TREASURY DEPARTMENT,
THIRD AUDITOR'S OFFICE,
Washington, D. C., April 26, 1878.

SIR: I have the honor to acknowledge the receipt of your letter of the 25th instant, asking information concerning the status of the claim of Augustin Maurin, for the amount of check No. 1728, for $500, drawn by Col. J. B. Grayson in 1861, in favor of Lieut. W. B. Lane, on the assistant treasurer of the United States at New York, and to state that the records of this office show that no settlement of the claim presented has ever been made.

The views of the Third Auditor and Second Comptroller upon the merits of the claim will be found expressed in the report of the former, and the communications of the latter addressed to the Hon. Hugh McCulloch, Secretary of the Treasury.

The papers referred are all upon the files of this office pertaining to the claim, and contain all the information relating thereto in my possession, except the fact, before stated, that the claim has never been settled by the accounting officers, and consequently no payment thereof, or of any part thereof, has been made.

I am, Senator, respectfully, your obedient servant,

HORACE AUSTIN, *Auditor.*

Hon. GEORGE E. SPENCER,
Chairman Committee on Military Affairs, U. S. Senate.

In view of the record, all of which substantiates and admits that Colonel Grayson had the authority to draw the check and to pay it out to Lieutenant Lane; that Lieutenant Lane disbursed the same in due course of official business and accounted therefor; that Mr. Maurin became the owner thereof for value, and that the same has not been paid, your committee are of opinion that the petition shows a case of merit, and that the relief prayed for should be granted. The United States obtained and used the supplies for which the draft or check was given, and the fact that the said draft or check has never been paid is conclusive, therefore, that the government has never liquidated properly for these supplies.

Mr. Maurin cannot, in view of the repeated decisions of the courts and of Congressional precedents, be held indirectly responsible for the capture of the Mesilla Valley

by the Confederates, nor made to suffer because he was cut off, by the accidents and incidents of war, from promptly forwarding the draft to New York for collection. It appears he exercised due diligence in the matter under attendant circumstances, and availed himself of such opportunity for collection of the draft or check as was presented. Colonel Grayson's subsequent defection to the Confederate cause should not be construed as operating against the *bona fides* of this claim, because at the time of the issuance of the check or draft all proceedings were had in consonance with law and regulations respecting its payment by Lieutenant Lane. Your committee, therefore, report the accompanying bill for relief, providing for the usual bond of indemnity, and recommend passage of the same.

Your committee beg leave to report the accompanying bill, the passage of which they recommend.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 324.

IN THE SENATE OF THE UNITED STATES.

MARCH 2, 1880.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 742.]

The Committee on Pensions, having examined the bill (S. 742) for the relief of Mary A. Lord, finds that, as the widow of Capt. Henry E. Lord, of Company G, Thirty-seventh Regiment Indiana Volunteers, she has been receiving a pension at the rate of $20 per month, with $2 additional for each of two children, since the 26th of February, 1873. The bill proposes to pay her at the same rate from March 22, 1864, the date of her husband's resignation in the Army, to the 26th of February, 1873, the time of his death.

The testimony shows that Captain Lord entered the service in 1861 and resigned in 1864 because of physical disability from disease of the kidney, on certificate of regimental surgeon; that immediately after his resignation he came into the service of the United States sanitary commission in New York, and remained in said service until a short time before his death in 1873; that he never applied for a pension.

The claimant was married to Captain Lord May 10, 1865, and after his death, to wit, December 26, 1874, made application for and succeeded in obtaining a pension, as before stated, from the date of Captain Lord's death. As her husband never applied for a pension, his widow cannot, under the rulings of the department, be allowed arrears under the act of January 25, 1879, granting arrears of pension from the date of disability. The bill proposes to allow it.

The committee is of opinion that arrears ought not to be allowed in any case where no claim was filed by the party claiming to be disabled, and especially to cover a period prior to the marriage of the claimant to the officer, and therefore recommends the indefinite postponement of the bill.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 325.

IN THE SENATE OF THE UNITED STATES.

MARCH 2, 1880.—Ordered to be printed.

Mr. BECK, from the Committee on Finance, submitted the following

REPORT:

[To accompany bill H. R. 710.]

The Committee on Finance report the claim of Jackson Grubb back to the Senate with the recommendation that the bill do pass. The committee adopt the report of the Committee of Claims of the House of Representatives, which is as follows:

[H. Report No. 28, Forty-sixth Congress, 2d session.]

Mr. O'CONNOR, from the Committee of Claims, submitted the following report, to accompany H. R. 710:

The Committee of Claims, to whom was referred the bill (H. R. 710) for the relief of Jackson Grubb, of McMinn County, Tennessee, have had the same under consideration, and submit the following report:

From a letter of the Commissioner of Internal Revenue of April 27, 1878, and the proof in this case, it appears that Jackson Grubb was a distiller of brandy from fruit in McMinn County, Tennessee, in 1868; that by the act of 20th July, 1868, distillers of brandy were assessed the sum of $400 annual tax; that upon an opinion of the Attorney-General the Commissioner of Internal Revenue, in accordance with the second section of said act of July 20, and with the approval of the Secretary of the Treasury, did on the 12th day of October, 1868, issue an order suspending the collection of, and relieving the distillers of fruit brandy from, the payment of said special tax, and that after the issuance of said order forbidding the further collection of said special tax, the collector of internal revenue of the second district of Tennessee, afterwards, to wit, on the 21st day of October, 1868, collected from said Jackson Grubb $300, said special tax. By reference to the letter of the Commissioner of Internal Revenue above referred to, it will be seen that this is the only claim, so far as the Commissioner is advised, paid after said order that has not been refunded.

The committee being well satisfied of the justness of this claim, recommend that the bill do pass.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 326.

IN THE SENATE OF THE UNITED STATES.

MARCH 2, 1880.—Ordered to be printed.

Mr. PLUMB, from the Committee on Public Lands, submitted the following

REPOR T:

[To accompany bill H. R. 2359.]

The Committee on Public Lands, to whom was referred the bill (H. R. 2359) for the relief of William D. Oyler, having considered the same, report as follows:

The House Committee on the Public Lands reported the bill favorably, with the following written report, which is hereby adopted:

The Committee on the Public Lands, to whom was referred the bill (H. R. 2359) for the relief of William D. Oyler, respectfully report:

That William D. Oyler purchased, July 21, 1847, at the land-office at Dixon, Ill., the west half of northeast quarter section 19, township 26 north, range 6 east, containing 80 acres, at $1.25 per acre, amounting to $100.

The entry of Oyler was canceled by the department September 6, 1849, for conflict with the pre-emption claim of one John Shumaker.

On the 22d of June, 1861, Oyler applied for a return of the purchase-money paid on his above-mentioned entry, which application was denied by the department because of a technical informality in a reconveyance to Oyler by parties to whom he had sold said land.

The honorable Commissioner of the General Land Office, in a letter addressed to the committee of the Forty-fifth Congress, affirms the equity of repayment to Mr. Oyler of the purchase-money aforesaid.

The committee therefore recommend the passage of the bill.

O

6TH CONGRESS, 2d Session. } SENATE. { REPORT No. 327.

IN THE SENATE OF THE UNITED STATES.

MARCH 2, 1880.—Ordered to be printed.

[r. MORRILL, from the Committee on Finance, submitted the following

REPORT:

he petition of Thomas Hastie, of Chicago, Ill., referred to the Committee on Finance June 17, 1879, praying for a reissue of $20,000 of 5-20 United States bonds which the petitioner claims were destroyed by fire in October, 1871, having been considered, the committee submit the following report:

The petitioner represents that in 1867 and 1868 he purchased from arious parties in Chicago ten bonds of a thousand dollars each, and wenty of five hundred dollars each; and that all written records of ıeir numbers and of their purchases have been destroyed. The petioner further represents that the purchases were made from the savings erived from long-continued business in the boot and shoe trade in hicago, $10,000 having been accumulated in gold, and that the bonds, hich were kept, as he says, in an iron box placed inside of a safe, were holly consumed by the great fire in October, 1871. There is an affidait of a woman, setting forth that upon one occasion the said Hastie khibited to her a large roll of United States 5-20 bonds in his possessın, but she is unable to state the aggregate amount, while she knows ıe interest was 6 per cent., payable in gold. It is only claimed that the onds were seen by one other person, a woman now deceased; and that he foreman in the shop or store at some time saw coupons clipped from he bonds.

It would appear from several affidavits, that the petitioner sustains he character of an honest man of plain and simple habits, now sixtyour years old, which would show him to have been fifty-six years old at he time of the fire. It also appears from one of the affidavits that while he fire was progressing he was advised to remove his bonds to some lace of greater security, but that he declined to do so. There is also estimony showing that coupons cut off from bonds were frequently used ı the payment of bills for several years, but the amount of the same is ot stated.

This petition and all the papers accompanying it, drawn up with care nd professional skill, tend to show that the petitioner, prior to the reat fire of 1871 in Chicago, was the owner of United States bonds hich may have been destroyed by the fire; and, if so, it is to be regreted that there is neither sufficient proof of the amount, nor of the loss, to ustify relief. There is really very little to sustain the claim except the vords of the *petitioner and the* testimony to his good character. This is

much, and yet it is not enough. It is not shown that any broker or banker, or other person, at any time ever sold bonds to the petitioner, nor is there any trace of a sale of bonds for his ten thousand dollars in gold, which in 1867 or 1868 would have been a large sum and not likely to escape the records or the memory of any dealer in bonds. It is not shown that the bonds were actually in the safe when the fire occurred. The numbers of the bonds, by which they could be identified and traced, are not shown, nor is even the series to which they belonged, or the date, given.

The safe where he kept his money and other valuables, as well as bonds, was in his store, part of which appears to have been occupied by his family as a dwelling-place, and, of course, the safe was liable to the exposure of being frequently opened by the petitioner and by others, during all the hours of daily business. If any bonds were there, it is not satisfactorily proven, except by the petitioner himself; and they may have been purloined altogether or in part at some time prior to the fire. It is confidently stated by one witness, nearly eight years after the fact, that the petitioner put his money and valuables there just before the fire, but the same witness car fully omits the words "just before the fire," when he adds "that he knows the bonds were placed in the same safe inclosed in an iron box." It would also appear, by the petitioner's own statement, that burglars had once failed to get possession of the bonds he claims to have kept in his safe.

When the safe was opened after the fire, there is not substantial proof of any charred remains of bonds, though this is faintly attempted. One witness says, when the box was opened nothing remained "but what appeared to be the ruins of some governmental bonds that crumbled at the touch or bare exposure to the air." Another affiant states that he picked up the *tin box* [spoken of by the petitioner as an *iron box*], and he "saw that there was nothing left but ashes and tinder, the latter in sizes of a finger-nail, that broke at the touch." No words, letters, or figures seem to have been visible, nor is there any other evidence which would even suggest, much less render it certain, that these ashes and cinders were the remains of United States bonds rather than of bills or any other valuable or not valuable papers. It is all *ex parte* testimony, and were it all to be admitted it would fall far short of supporting the claim for the issue or reissue by the government of $20,000 in United States bonds, with past-due coupons for eight years; but the affidavits in support of this case were again given by those who were subject to no cross-examination. If they had been, it is not unlikely that, in spite of the natural sympathy which an honest but unfortunate man always deserves, other facts, adverse to the claim, might have appeared.

When bonds are alleged to have been destroyed, and a reissue is asked, the ownership and the destruction should be "clear and unequivocal," and they must be specifically known and described, in order that a bond may be taken to secure the government should the missing bonds ever be presented by other and different parties. In this case the ownership is not established, the destruction is not proven, nor is there any knowledge of the numbers, series, or date of the bonds, and no one knows aught of the amount but the petitioner himself; and he might have asked for the reissue of one hundred thousand dollars with the same support of evidence as that which now adheres to twenty thousand.

To grant the prayer of the petitioner would establish an extraordinary as well as dangerous precedent, and the Committee on Finance therefore report adversely upon the petition and ask to be discharged from its further consideration.

APPENDIX A.

TREASURY DEPARTMENT,
February 26, 1880.

SIR: I have the honor herewith to return the papers in the matter of Thomas Hastie, titioner for the reissue of $20,000 of 5-20 United States bonds alleged to have been stroyed by fire in Chicago in October, 1871, and to inclose the copy of a letter ad-essed to this office from the First Comptroller of the Treasury, in reference to the rits of the claim.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. JUSTIN S. MORRILL,
United States Senate Chamber.

APPENDIX B.

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
Washington, D. C., February 25, 1880.

SIR: I have the honor to return to you the petition of Thomas Hastie, presented to d now pending in Congress, for relief on account of destruction by fire in October, 71, in the great Chicago conflagration, of United States 5-20 coupon bonds, of which e petitioner claims to have been at the time the owner, amounting to $20,000. I o return the affidavits that accompanied the petition, which were filed in support ereof.

The petitioner alleges that during the years 1867 and 1868 he bought the bonds ove mentioned, at different times, from banks and brokers, with money saved dur-g a long career in business. He does not furnish the names of any of the bankers brokers from whom he made purchases. He seems to have been engaged as a retail aler in boots and shoes, having his shop in the same building in which he lived with family; and he alleges that he kept his bonds in a box in an iron safe in said shop. states that to the best of his knowledge and belief there were thirty bonds, ten of hich were of the denomination of $1,000 each, and twenty of the denomination of 00 each. He does not give the numbers of the bonds, or the series, or the date of e act which authorized their issue.

He says that as soon after the fire as the subsidence of the heat would allow, he k two friends, whose names are given, to assist him in getting the safe from the ins, and that when it was opened, and the box in which the bonds were placed was amined, it was found they were burned to cinders. One of these friends supports affidavit this statement of the petitioner; the other friend is said to be deceased.

The petitioner says that he was very anxious not to let the fact be known that he s the owner of these bonds, but he states that during the last illness of his wife he hibited them to two ladies who were taking care of her, and that two other friends ew he had purchased bonds. One of these ladies testifies that after the death of wife he exhibited a package of bonds and greenbacks to her which he said was rth more than $20,000, and which, he added, burglars who had shortly before en-ed his house had failed to find. She says that she had the package in her hands, d saw that it contained some bonds of the denomination of five hundred dollars and o greenbacks.

Where applications are made at the Treasury Department for the redemption of nds alleged to have been destroyed the statute requires that the proof of destruction all be "clear and unequivocal." The applicant is required by the regulations of the partment to state from whom the bonds were bought, and the price paid therefor, in ler to establish satisfactorily the fact of ownership; and the bonds are required to identified by number and series and date of the authorizing act. An indemnity nd is also taken, in case of redemption, to secure the government in the event that bonds shall turn out not to have been lost, and shall be presented for redemption.

It has been before stated that the bonds, in the present instance, are not identified number, series, or date of the authorizing act. Nine series had been issued before s asserted the bonds of the petitioner were destroyed. For aught that appears the nds which he claims to have owned might have belonged to any of these series. A nd of indemnity, in case of a redemption of these bonds, would, therefore, be un-ailing, as there would be no way of identifying them so as to ascertain whether they d been redeemed.

Unless, therefore, it is proved beyond doubt that the petitioner was the owner of the nds, and that they were destroyed, it would seem that an application for redemption ght *to be denied.*

It has been shown that the petitioner does not state from whom he bought any of the bonds. He thus omits to make clear, by the most satisfactory kind of evidence, the fact that he was once the owner of them.

It also appears that the bonds were kept in a common safe, frequently open, of course, during the transaction of business, and that the fact that they were kept there was known to other persons than himself, though, perhaps, only by a few. It would seem, from the circumstance of his exhibiting to the lady referred to a package of greenbacks along with his bonds as a package which burglars had failed to find when they invaded his house, that he was not in the habit of depositing his moneys in a bank. The fact that one engaged in trade does not keep a bank deposit might easily, of course, become known, and invite the invasions of thieves. It is not specifically stated how recently before the fire the bonds had been seen in the safe. It must be admitted, however, that the evidence, taken altogether, does seem to establish a strong probability, if *ex parte* testimony in such cases can be regarded satisfactory, that the petitioner was the owner of United States bonds, and that they were destroyed in the conflagration in which so large a part of the city of Chicago was laid in ashes.

Very respectfully,

A. G. PORTER,
Comptroller.

Hon. JOHN SHERMAN,
Secretary of the Treasury.

O

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 328.

IN THE SENATE OF THE UNITED STATES.

MARCH 2, 1880.—Ordered to be printed.

r. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3347.]

ie Committee on Military Affairs, to whom was referred the bill (H. R. 3347) to authorize the Secretary of War to furnish four pieces of condemned ordnance for the soldiers' monument at Marietta, Ohio, respectfully submit the following report:

In reply to a communication from the member in charge of the bill, the ecretary of War sends the following letters:

WAR DEPARTMENT,
Washington City, February 21, 1880.

SIR: I have the honor to acknowledge receipt of your letter of the 16th instant, ad-essed to the Adjutant-General of the Army, inclosing, with other papers upon the bject, a copy of H. R. 3347, "to authorize the Secretary of War to furnish four pieces condemned ordnance for the soldiers' monument at Marietta, Ohio," and requesting e views of the department as to whether, "in view of the amount of ordnance on nd, it comports with the public interest to grant this and similar requests."

In reply, I beg to invite attention to the inclosed copy of Senate Ex. Doc. No. 70, rty-sixth Congress, second session, which presents the information desired, and to urn herewith, as requested, the papers that accompanied your letter.

Very respectfully, your obedient servant,

ALEX. RAMSEY,
Secretary of War.

Hon. S. B. MAXEY,
Committee on Military Affairs, U. S. Senate.

Ex. Doc. 70 (Senate), referred to in said letter, is as follows:

[Senate Ex. Doc., No. 70, Forty-sixth Congress, second session.]

tter from the Secretary of War, replying to Senate resolution of January 21, 1880, *in regard to condemned cannon donated for monumental purposes.*

WAR, DEPARTMENT,
Washington City, February 5, 1880.

The Secretary of War has the honor to transmit to the United States Senate, in comance with the resolution of that body, dated January 21, 1880, calling for report as "number and weight and the value per pound of condemned cannon which have ce January, 1865, been donated for any purposes by acts of Congress, and whether ere are in fact any such cannon now on hand," a report of the Chief of Ordnance, ted the 3d instant, furnishing the information desired.

ALEX. RAMSEY,
Secretary of War.

The PRESIDENT *of the United States Senate.*

ORDNANCE OFFICE, WAR DEPARTMENT,
Washington, February 3, 1880.

SIR: I have the honor to return herewith Senate resolution dated 21st ultimo, and to submit the following:

Statement showing the number of guns donated by Congress for monumental and other purposes since January, 1865; *also, showing the weight of these guns—bronze and iron—delivered, and their value.*

Year.	Number of guns donated by Congress.	Weight of guns delivered by the Ordnance Department.	Bronze or iron.	Value per pound.	Amount.
		Pounds.		*Cts.*	
1865	None.				
1866	None.				
1867	None.				
1868	Eight, and an indefinite number for Lincoln Monument Association of Washington, act of June 25, 1868.				
1869	Indefinite number for Lincoln Monument Association of Springfield, Ill., act of March 3, 1869.				
1870	One hundred and ninety-five, and an indefinite number.	113,193	Bronze	20	$22,638 60
		127,588	Iron	1	1,275 88
1871	Forty-three	60,608	Bronze	22	13,333 76
		124,076	Iron	1	1,240 76
1872	Seventy-four	33,592	Bronze	26¼	8,901 88
		35,600	Iron	1 3/16	535 25
1873	One hundred and ten, and an indefinite number, for Gettysburg Battlefield Memorial Association.	131,342	Bronze	24	31,522 08
		1,476	Iron	1 3/16	17 52
1874	One hundred and thirty-six	74,808	Bronze	21	15,709 68
		54,244	Iron	1½	619 24
1875	Fourteen	19,342	Bronze	18⅔	3,602 45
		14,100	Iron	1⅜	193 87
1876	Four	8,444	Bronze	20	1,688 80
1877	None.				
1878	Twenty-four	50,864	....do	13	6,612 32
1879	Thirty-seven	20,546	....do	16⅔	3,441 41

Total delivered: 512,739 pounds bronze, 357,084 pounds iron. Total value, $111,345.54.

On 2d instant I had the honor to report, viz:

1st. The number of condemned *bronze* cannon on hand has been reduced to 268. Of this number 67 are 12-pounders, weighing about 1,225 pounds each, and 201 are 6-pounders, weighing 880 pounds each.

The joint resolution of July 15, 1870, donates to the Lincoln Monument Association, Washington, D. C., "so much damaged and captured bronze and brass ordnance as may be necessary, out of which to cast the principal figures of said monument, from time to time as the models are completed."

The artist, Mr. Clark Mills, informs me that it will take 240 12-pounder guns, in addition to 12 already issued, to complete the monument. As we have only 67 12-pounders, the total amount of metal will have to be made up with 6-pounders, taking in all 67 12-pounder and 244 6-pounder guns, or 43 6-pounders more than are now on hand.

2d. The act of March 3, 1873, donates to the Gettysburg Battlefield Memorial Association also an indefinite number of cannon. Only 35 iron guns have thus far been issued to it.

3d. There are other acts passed by Congress donating 120 guns, in the aggregate, which have not been called for and have not been delivered by this department.

4th. We have on hand 230 condemned iron guns that can be issued for monumental purposes, but unless *iron* is specified in the act the call is made for bronze. Where the metal is to be used in casting, bronze is of course a necessity.

Very respectfully, your obedient servant,

S. V. BENÉT,
Brig. Gen., Chief of Ordnance.

The Hon. SECRETARY OF WAR.

From this document it will be seen the laws in force more than exhaust the condemned bronze cannon on hand, and the Chief of Ordnance reports that condemned iron cannon are not called for unless specified in the act. The committee believing that the condemned iron cannon are not desired or desirable, report the bill back and recommend that it do not pass.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 329.

IN THE SENATE OF THE UNITED STATES.

MARCH 2, 1880.—Ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1036.]

The Committee on Military Affairs, to whom was referred the bill (S. No. 1036) for the relief of Edmund T. Ryan, having had the same under consideration, beg leave to submit the following report:

This bill has been before the Committee on Military Affairs of both Houses for several years past, but has failed to receive action by these committees.

The following letter from the Adjutant-General gives a full history of the case, and your committee adopt it as a part of their report:

ADJUTANT-GENERAL'S OFFICE,
February 20, 1880.

The Hon. SECRETARY OF WAR:

SIR: I have the honor to return herewith the bill (S. 1036) "for the relief of Edmund T. Ryan," which was referred to the department the 5th instant for information in the case by Hon. J. D. Cameron, of the Senate Military Committee.

I inclose a transcript of Mr. Ryan's military record, and a copy of the order announcing the sentence of court-martial by which he was dismissed and cashiered the service.

The bill in question provides that the record of the court-martial in the case of Mr. Ryan, and the action and order of dismissal based thereon, shall be set aside and declared null and void, and recites that he was *illegally* dismissed. The Judge-Advocate-General, to whom the papers were referred, reports as follows:

"There was nothing *illegal* in the dismissal of Mr. Ryan. The constitution and composition of the court were both according to law, and no irregularity has been found in its proceedings that could affect the validity of the same in law. The sentence was duly approved by the President. This bureau has indeed heretofore expressed in its reports the opinion that the sentence imposed was too severe, though this view has not been approved by the Executive."

Mr. Ryan's claim for restoration to his original office, on the ground that his dismissal was *illegal*, has been frequently urged by him, or on his behalf, upon the department and Congress, but such claim has not been recognized as justified by the law or the facts. His application for a *reappointment* as a second lieutenant in the Army, in consideration of the fact that his sentence, in the opinion of the Judge-Advocate-General, as expressed in his review of the record of trial and in several subsequent reports, was a severe punishment for the offense, has been from time to time presented to and considered by the President and Secretary of War. In January, 1877, the President advised the department that he declined to reappoint Mr. Ryan. October 12, 1877, the Judge-Advocate-General reported as follows:

"Mr. Ryan has now been some four years and nine months under the ban of the sentence which dismissed him from the military service. While in the opinion of this bureau, as expressed in previous reports, no legal defects affecting the validity of his sentence existed in the proceedings of his trial, it is believed that his case will, upon the merits, and because of the severity of the punishment as executed, quite justify his re-*appointment as second lieutenant* at this time. It is suggested, however, that,

the United States, willfully conceal and appropriate to his own use and benefit the sum of seventy dollars and ninety cents of said sum of one hundred and ninety-two dollars and eighty-two cents, and did deliver to the designated depositary of the United States at Santa Fé, N. Mex., but one hundred and twenty-one dollars and ninety-one cents of said one hundred and ninety-two dollars and eighty-two cents. This at Fort Cummings, New Mexico, on or about the 14th day of December, 1871."

Specification 2d.—"In that Second Lieut. Edmund T. Ryan, Fifteenth Regiment of United States Infantry, having sold by public auction a quantity of public property, pursuant to authority from Headquarters Department of the Missouri, dated October 26, 1871, and having received for said property the sum of one hundred and nineteen dollars and twenty-five cents, did, in the rendition of his accounts of such sale to the Quartermaster-General, United States Army, falsely enter in said account for services of auctioneer the sum of eleven dollars and ninety-two cents, and did deduct the same from the said sum of one hundred and nineteen dollars and twenty-five cents, and did sign and cause to be signed to said account the fictitious name of G. D. Titcomb, auctioneer, for the purpose of aiding and obtaining the approval of said account and entry, well knowing the same to be false, fictitious, and fraudulent, in that no auctioneer had been employed by the said Lieutenant Ryan in the sale of said property, and that the said Lieutenant Ryan in the manner and form aforesaid did cheat and defraud the United States out of said sum of eleven dollars and ninety-two cents. This at Fort Cummings, New Mexico, on or about the 11th day of December, 1871."

CHARGE III.—"Conduct unbecoming an officer and a gentleman."

Specification 1st.—"In that Second Lieut. Edmund T. Ryan, Fifteenth Regiment of United States Infantry, in the rendition of his official accounts as acting assistant quartermaster, post of Fort Cummings, New Mexico, for the month of December, 1871, did sign and subscribe to the following certificate to his account current in the words and figures following, to wit: 'I certify that the above is a true account of all the moneys that have come into my hands on account of the Quartermaster's Department during the month of December, 1871,' which certificate was false within the knowledge of the said Lieutenant Ryan, in that the sum of seventy dollars and ninety-two cents had not been accounted for in said account, and that the said sum had come into his hands on account of the Quartermaster's Department for the month aforesaid. This at Fort Cummings, New Mexico, on or about the 14th day of December, 1871."

Specification 2d.—"In that Second Lieut. Edmund T. Ryan, Fifteenth Regiment of United States Infantry, did, while on duty as officer of the day at Fort Cummings, New Mexico, become drunk, and did make his appearance in a drunken condition in the public billiard room at the post-trader's store at said Fort Cummings, in the presence of officers and citizens, and did lie exposed in a drunken sleep on the table and lounge in the said billiard room. This at Fort Cummings, New Mexico, on or about the 30th of September, 1871."

Specification 3d.—"In that Second Lieut. Edmund T. Ryan, Fifteenth Regiment of United States Infantry, did, during the absence of Capt. Alfred Hedberg, Fifteenth Infantry, and without the consent of the said Captain Hedberg, open and read a private letter addressed to the said Captain Hedberg, and upon the return of the said Captain Hedberg the said Lieutenant Ryan did hand the said letter to him (Hedberg), and did state to the said Captain Hedberg that the letter aforesaid came marked 'O. B. & P.,' which statement was false within the knowledge of the said Lieutenant Ryan, in that the envelope of said letter was not so marked, but that the same was marked personal only. This at Fort Cummings, New Mexico, on or about the 21st day of September, 1871."

CHARGE IV.—"Violation of the 6th article of war."

Specification 1st.—"In that Second Lieut. Edmund T. Ryan, Fifteenth United States Infantry, did send the following contemptuous and disrespectful communication to his commanding officer, Capt. Alfred Hedberg, Fifteenth United States Infantry, commanding post of Fort Cummings, New Mexico, at which post the said Lieutenant Ryan is serving:

"'OFFICE A. A. Q. M., FORT CUMMINGS, N. M.,
"'*January 3d*, 1872.

"'Captain ALFRED HEDBERG,
"'*15th Infantry, Fort Cummings, N. M.:*

"'CAPTAIN: I have the honor to request the immediate return of all carpenters' tools for which I am responsible, and which you surreptitiously and without my knowledge or consent abstracted from the store-rooms of the quartermaster's department of this post by enlisted men acting under your orders as commanding officer of the post. I require these tools before submitting the report of property on hand for the action of the board of survey.

"'Very respectfully, your obedient servant,
"'EDMUND T. RYAN,
"'*2d Lieut.* 15th Infantry, A. A. Q. M.'"

"*This at Fort Cummings,* New Mexico."

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 331.

IN THE SENATE OF THE UNITED STATES.

MARCH 3, 1880.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 89.]

The Committee on Claims, to whom was referred the bill (S. 89) for the relief of John Adams, William B. Cliff, David Dunseath, William Killinger, J. F. Scott, administrator of the estate of Obediah Scott, deceased, Davis Peak, Charles Linderman, James Linnane, Patrick Carey, John McMahon, and James Gorman, administrator of the estate of Patrick Gorman, deceased, have considered the same, and report thereon as follows:

That said John Adams was mate and said William B. Cliff was pilot of the steamboat Champion No. 3; and that said David Dunseath was pilot; said Obediah Scott, 1st engineer; said Davis Peak, 2d engineer; said William Killinger, watchman; said Charles Linderman, cook and steward; and said James Linnane, Patrick Carey, John McMahon, and Patrick Gorman were deck-hands on the steamboat Champion No. 5; that said Obediah Scott is now deceased, and J. F. Scott is administrator of his estate; and said Patrick Gorman is deceased, and James Gorman is administrator of his estate.

The compensation at which said officers and men were employed when impressed into the service of the United States was as follows, viz:

John Adams, mate, at $60 per month.
William B. Cliff, pilot, at $300 per month.
David Dunseath, pilot, at $300 per month.
Obediah Scott, 1st engineer, at $150 per month.
Davis Peak, 2d engineer, at $75 per month.
Charles Linderman, cook, at $100 per month.
James Linnane, deck-hand, at $45 per month.
Patrick Carey, deck-hand, at $45 per month.
John McMahon, deck-hand, at $45 per month.
Patrick Gorman, deck-hand, at $45 per month.
William Killinger, watchman, at $50 per month.
(*Vide* portage lists of said two boats, filed with papers.)

The said two steamboats, on the 15th day of April, 1864, at the mouth of Red River, were taken possession of by order of Commodore D. D. Porter, and, with their officers and crews, impressed into the service of the United States.

The fact of the impressment of the boats, their officers and crews, is proved by the affidavit of each of the claimants, by the order of impress-

ment made by Commodore Porter, and by a certificate or statement subsequently made by him certifying to the fact of such impressment.

The boats were ordered to proceed with barges of coal from the mouth of Red River up said river to Alexandria, and when they reached Alexandria, they were then required and compelled, against the protest of officers and crew, to proceed about 120 miles farther up the river to assist in raising the sunken United States vessel Eastport.

Commodore Porter accompanied the expedition in his flag-boat and commanded it. On the return, they came to a Confederate battery of 19 guns, meantime erected near the mouth of Cain Creek, and in running the same, under the orders of Commodore Porter, the boiler of the Champion No. 3 was exploded by a shot, and only seven persons out of 170 on board escaped with their lives. The Champion No. 5 was also totally destroyed, and the survivors of both crews made prisoners of war, and confined at Camp Ford, Texas, where they suffered privations and exposures scarcely paralleled in the history of the war.

These men were all captured on the 26th and 27th days of April, 1864. They were exchanged on the 27th day of May, 1865, and reached Cincinnati, where, and in the vicinity of which, they resided, on the 11th day of June, 1865. The time that elapsed from the date of their captivity to the date of their return to their homes was one year one month and fifteen days. The aggregate amount that each would be entitled to, if paid for this time the wages respectively as hereinbefore set forth, is correctly stated in the bill.

These claims were presented to the accounting officers of the Navy for payment, and rejected for want of authority to allow them, as appears by the following extract from a letter of the Second Comptroller of the Treasury, in reply to a request on behalf of a House committee for information:

I entered upon the examination with reluctance, for I had already become impressed that the claimants, as survivors of the terrible disaster referred to and the dangers of the long and irksome incarceration, deserved substantial recognition at the hands of the government, and I knew of no law that authorized the adjustment of their claims by the accounting officers of the Treasury. After examination of the case it was with regret that I came to the conclusion that their case is *casus omissus*.

Congress has directly provided (R. S., § 3483) that one who sustains damage by the destruction by an enemy of a vessel, while such property is in the military service, shall be paid the value of the vessel. And section 4693, Revised Statutes, has been construed to authorize the payment of a pension in a case where the terms of employment were the same as that under which claimant was engaged at the time of the disaster. I have examined carefully the regulations of the Army and of the Navy and the acts of Congress, together with the authorities cited by claimants' attorney, and I am unable to find any like provision that would authorize the accounting officers of the Treasury to sustain this claim without further legislation.

I am, very respectfully,

W. W. UPTON,
Second Comptroller.

Your committee fully concur with the Second Comptroller as to the justice and merit of this claim.

Under the laws above referred to the owner of the vessel has been paid its value and the widows of the killed have been pensioned. No good reason exists why the survivors should not be paid wages during the time of their captivity. If their comrades who lost their lives were in the service of the United States so as to entitle their widows to pension, surely the survivors were in the service and entitled to pay. If the owner of the vessel, who risked his property in the service of the United States, was entitled to compensation for its loss, then *a fortiori* (as life and liberty are dearer than property) he who risked his life and lost his liberty in the service of the United States should at least have

pay for the time lost in captivity. And such is the ruling and practice in auditing accounts for services in the Quartermaster's Department of the Army in precisely similar cases, as appears by the following letter received by House Committee on War Claims in reply to an inquiry addressed to the Third Auditor of the Treasury, who has charge of that duty in Army accounts:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
Washington, D. C., January 24, 1878.

In response to your letter of the 22d instant, asking as to the practice of this office in reference to claims filed by employés of the Quartermaster's Department for compensation as such employés while held as prisoners of war, you are informed that it has not been the custom of this office to make any allowance to such persons merely as damages for detention while in captivity. The action of the office has been founded on the theory that persons hired by the Quartermaster's Department and carried on the rolls of that department continue to be the servants thereof during captivity, and are entitled to be paid at the rate of hiring until discharged from the service. * * *

The favorable action of this office has not, however, been confined to persons in the service of the Quartermaster's Department under express contract, but has been extended to the crews of boats which have been impressed into the military service, which crews have been subsequently captured, upon the theory that by the impressment of the boat the government makes the employés of the owners its servants.

There is no special statute authorizing these allowances, but the act of 1817 (sec. 277, Rev. Stats.), imposing upon the Third Auditor the duty of examining all accounts of the Quartermaster's Department, has been deemed to confer ample authority for the action taken.

In reference to compensation, the rule has been to continue to an employé the pay he was receiving from his employer at the time of the capture, and to continue the same while he is actually held as a prisoner of war—that is to say, up to the time of his parol—allowing, in addition, a reasonable time for his return to the port of shipment.

I am, sir, very respectfully, your obedient servant,
HORACE AUSTIN, *Auditor.*

It would thus seem that in precisely similar cases pay is allowed in the Army and disallowed in the Navy. Your committee do not question the correctness of the ruling in either case. It is probably *casus omissus* in the case of the Navy, as the Second Comptroller suggests; but it is evident that the government should be prompt to mete out the same justice to the gallant men who do the *same* services in the time of danger, whether done in the Army or the Navy. Whether an act be performed under the orders of a general or a commodore, can make no possible difference either in its merit or its worth.

Your committee recommend the payment to these men of the same wages they were receiving when impressed, from the time of their capture up to the time of their return to Cincinnati, and report back said bill with two amendments, and recommend that it do pass when so amended.

C

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 332.

IN THE SENATE OF THE UNITED STATES.

MARCH 3, 1880.—Ordered to be printed.

Mr. GARLAND, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill S. 967.]

The Judiciary Committee, having had under consideration the bill (S. 967) to extend the jurisdiction of the northern district of Texas, make the following report:

This bill seeks to establish a court at Denison, Tex., and to give such court jurisdiction over that part of the Indian Territory occupied by the Choctaw and Chickasaw Nations, and to this extent to abolish the United States court at Fort Smith, Ark.

The committee do not think it wise to change the jurisdiction over the Indian country in this partial manner, but deem it better to deal with this matter as one question affecting all the five civilized tribes of Indians, and this subject is now before another committee of the Senate to be disposed of as the Senate may think best on any report from that committee; and this committee therefore ask to be discharged, and that the bill be indefinitely postponed.

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 333.

IN THE SENATE OF THE UNITED STATES.

MARCH 3, 1880.—Ordered to be printed.

Mr. HOAR, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of Anson Dart, praying payment of a balance claimed to be due him for services rendered the United States Government, as Indian superintendent on the Pacific coast, have considered the same, and respectfully report:

The case of the petitioner is stated very fully and strongly in a report made to the House of Representatives by Mr. Edwards, on the 24th day of February, 1860, which is as follows:

[H. Report No. 1, 36th Congress, 1st Session.]

Mr. EDWARDS, from the Committee on Indian Affairs, made the following report:

The Committee on Indian Affairs, to whom was referred the petition of Anson Dart, late superintendent of Indian affairs in the Territory of Oregon, and also a bill entitled "A bill for the relief of Anson Dart," respectfully report:

That the petitioner, in his said petition, asks provision for the payment of moneys due him for services rendered and expenses incurred while in the discharge of his duties connected with the Indian superintendency in the country now including the State of Oregon and the Territory of Washington, and presents the following specification of his claims:

1. He asks to be allowed the difference between his salary, as received by him as superintendent as aforesaid, and the salary established during his term of office for the superintendent of Indian affairs in California.
2. To be allowed the amount paid by him for an assistant clerk, for six months' service, to aid him in his negotiation of Indian treaties.
3. To be allowed for board of interpreters and of clerks employed by him in his official business.
4. For his traveling expenses in returning to Washington to settle his accounts after his office had terminated.
5. For interest on moneys paid by him for the use of the government from time of payment.

In support of his petition and of his several claims, as above stated, he has established before us the following facts:

That he was appointed superintendent as aforesaid in June, 1850, and served as such from July 1, 1850, until the 4th day of May, 1853, and during that period had under his superintendency the Indian affairs in all the country now included in the State of Oregon and the Territory of Washington, as set forth in his petition. That he was a faithful and efficient officer, and discharged his duties to the satisfaction of the government. That during his term of office peace and quiet were maintained amongst all the Indian tribes under his care, and between them and the white people around them, without any resort to force, and without any extraordinary expenditures.

That at the time of his appointment to the office, the salary, as fixed by law, was $2,500 per annum; but that he accepted the appointment only upon the assurance from the Commissioner of Indian Affairs and from the Committee on Indian Affairs in the Senate that, in a bill then about to be reported, establishing the office and the pay of superintendent of Indian affairs in California, a provision would be included which should make the pay for each of the two superintendencies of equal amount.

That while he was absent, engaged in the duties of his office, a bill passed establishing the pay of the superintendent aforesaid in California at $4,000 per annum, but which, through inadvertence or accident, when reported, did not include a change of the salary of the superintendent in Oregon, although such change had the sanction and approval of the Indian bureau at the time. Letters from the Hon. D. R. Atchison, then chairman of the Senate Committee on Indian Affairs; from the Hon. Luke Lea, Commissioner; and from Hon. Thomas Corwin, then Secretary of the Treasury, confirm these statements.

That, apart from the understanding and expectation aforesaid, the salary of twenty-five hundred dollars, in the then condition of the country, was an inadequate compensation for the services rendered and expenses incurred by Mr. Dart. It was in evidence before the committee that at that early period, in that remote Territory, the expenses of living were very large, no less so than in California, and that the duties of the superintendency were increased in 1851 by the reorganization of the Indian department, by which three treaty commissioners, at salaries of eight dollars each per day were dispensed with, and their duties transferred to the superintendent without providing for him any additional compensation, and that under this new law Mr. Dart negotiated not less than thirteen Indian treaties.

That he was also, as superintendent, the disbursing agent for six Indian agencies, and that no money committed to him has ever been lost to the government, or is unaccounted for.

The following further facts were established before the committee:

That by the transfer of the duties of the treaty commissioners as aforesaid, it became necessary that the superintendent should employ interpreters, and also additional clerk service. That he employed such interpreters and also an extra clerk for six months, at an expense of seven hundred and fifty dollars, for which last he has not yet been allowed. That by reason of the great expense of living, as before stated, and the high price of labor in that distant and then uncultivated and unsettled country, he could not procure the necessary services of interpreters without furnishing their board in addition to their stated pay. That this extra clerk service and increased expense of interpreters may be regarded as within the discretion allowed to the superintendent by the terms of his instructions from the Department of the Interior on his entering upon his office—instructions somewhat general and indefinite, but referring much to his discretion and judgment when he should arrive at his post and should ascertain the necessities of his position.

From a consideration of the foregoing facts, the committee are of the opinion that the petitioner has a just and equitable claim on the government for the difference between the salary he has received and the salary which was fixed for the superintendent of Indian affairs in California by the act of March 3, 1852, and for any moneys paid by him, and expenses incurred for extra clerk hire, and for board of interpreters employed by him as superintendent as aforesaid; and are of opinion that the proper accounting officer of the Treasury should be authorized to settle with him upon principles of equity, so as to indemnify him fully for such moneys paid and expenses incurred, and to make up to him the deficiency of his compensation as aforesaid.

And for this purpose they report the accompanying bill for his relief.

Conceding the statements of this report to be true we cannot recommend granting the prayer of the petitioner.

We cannot treat the assurance by an executive officer that a salary shall be raised as equivalent to an act of Congress raising it.

We cannot undertake to correct the mistakes of past generations and compensate every public officer whose salary was inadequate or disproportionate to that of others performing like services.

Besides, June 15, 1860, on the report of Mr. Edwards, a bill was passed allowing to the petitioner an increase of $1,500 per annum for his services, and directing the Secretary of the Treasury to settle with him on principles of equity and justice, so as to indemnify him for his expenses. February 12, 1879, an adverse report on this petition was made by Mr. Oglesby, from the Committee on Indian Affairs, and agreed to by the Senate.

We recommend that the petition be disallowed.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 334.

IN THE SENATE OF THE UNITED STATES.

MARCH 5, 1880.—Ordered to be printed.

Mr. DAVIS, of West Virginia, from the Committee on Appropriations, submitted the following

REPORT:

[To accompany bill S. 1424.]

The Committee on Appropriations, having considered the propriety of placing under the direct supervision and control of Congress the appropriations known as permanent and indefinite, the greater part of which are set forth and specified in sections 3687, 3688, and 3689 of the Revised Statutes of the United States, submit the result of their deliberations in the bill accompanying this report.

The committee consulted freely with the Secretary of the Treasury, and had prepared by his order a schedule of the matters and things which are now treated as either permanent or indefinite appropriations, which schedule, with the amounts expended under each item during the fiscal years 1877, 1878, and 1879, as furnished by the Treasury Department, showing what could be changed to annual appropriations and what the department thought had best remain on the list of permanent or indefinite appropriations, as at present, is as follows:

Expenditures from appropriations proposed to be repealed for fiscal years 1877, 1878, *and* 1879.

	1877.	1878.	1879.
Coinage of the standard silver dollar	.....	$81,115 75	$1,561 05
International Bimetallic Commission	.....	.....	37,067 99
Payment for land sold for direct taxes	$6,130 00	1,450 00	11,350 00
Refunding moneys for lands redeemed	111 97	.....	.....
Refunding taxes illegally collected under direct-tax laws	100 75	.....	267 69
	486 49	.....	49 67
Refunding moneys erroneously received and covered	9,811 30	1,694 48	.....
Refunding proceeds of cotton seized	5,284 17	36,640 25	42,057 93
Return of proceeds of captured and abandoned property	41,800 00	46,800 00	1,000 00
Salaries and expenses Southern Claims Commission	12,151 66	.....	.....
Twenty per cent. additional compensation	16,121 33	25,830 13	18,205 79
Redemption of stamps	6,591,037 57	5,826,974 32	5,485,779 63
Collecting revenue from customs	2,845 98	12,039 24	5,697 22
Building or purchase of such vessels as may be required for revenue service	.....	18,547 80	.....
Refunding duties on goods destroyed (customs)	252,024 10	138,946 21	151,867 44
Arming and equipping the militia	74,988 85	74,996 79	74,697 00
Ordnance material, proceeds of sales (war)	74,906 26	67,516 35	17,645 56
Ordnance material, proceeds of sales (Navy)	47,675 56	1 95	7,764 00
Horses and other property lost in the military service			
Bounty to soldiers	113,826 65	105,431 57	67,663 47
Trusses for disabled soldiers	.....	.....	20,000 00
Commutation of rations to prisoners of war in rebel States	2,000 00	.....	.....
Rogue River Indian war	8 96	.....	.....
Allowance for reduction of wages under eight-hour law	6,821 88	7,405 04	.....

Expenditures from appropriations proposed to be repealed, &c.—Continued.

	1877.	1878.	1879.
Salaries United States judges, retired			$14,855 0
Salaries justices, &c., Supreme Court	$1,500 00	$1 500 00	1,500 0
Fees of supervisors of elections	170,272 07		115,032 8
Extra pay to officers and men who served in the Mexican war (Navy)			19,081 0
Indemnity for lost clothing		4,398 87	495 0
Relief of certain officers of the Navy		3,662 03	
Relief of sufferers by wreck of the United States steamer Huron		62,650 29	4,636 0
Refunding money for lands erroneously sold	30,176 27	43,188 02	22,488 8
Sinking fund for three-sixty-five bonds District of Columbia			94,413 37
Relief of widows and orphans of those lost in the sloop-of-war Albany and brig Porpoise	43 20		
Relief of heirs of those lost in the United States steamer Oneida		240 00	
Bounty for the destruction of enemies' vessels	3,688 21		
Coinage of silver for redemption of fractional currency	212,813 03	21,690 28	
Payment of interest on three-sixty-five bonds District of Columbia	501,649 61	507,607 63	501,628 62
Salaries and expenses Court of Commissioners of Alabama Claims	55,435 99	505 40	
Payment to officers and crew of United States steamer Kearsarge	150 93		
Salaries and expenses agents and clerks Southern Claims Commission			9,895 24
Two, three and five per cent. funds of the net proceeds of sales of public lands in States	17,283 64	10,082 97	45,300 06
Indemnity for swamp lands to States	20,022 15	11,091 79	21,091 50
Protection and improvement of Hot Springs, Ark		1,827 44	2,993 45
Maryland Institution for Instruction of the Blind	2,837 50	3,820 83	5,550 00
Publishing proclamations relating to sales of lands			4,588 30
Convention between United States and New Granada and Costa Rica		3,420 94	
Total expenditures	8,184,006 08	7,120,476 37	6,806,323 82

Expenditures from appropriations excepted.

	1877.	1878.	1879.
Interest on the public debt	$93,234,253 05	$98,621,903 93	$101,453,11[illegible]
Interest on Pacific Railroad bonds	3,890,258 53	3,878,970 72	3,874,83[illegible]
Refunding the national debt, not exceeding one-half of one per cent. of the bonds authorized by the acts of July 14, 1870, January 20, 1871, and January 14, 1875	489,740 86	919,124 03	1,915,9[illegible]
Expenses of Smithsonian Institution (interest on trust fund)	39,060 00	40,841 00	39,[illegible]
Steamboat inspection service	207,769 94	216,249 65	210,[illegible]
Trust fund interest for support of free schools in South Carolina	2,994 32	3,483 96	1,[illegible]
Refunding to national banking associations (excess of duty)	875 38	6,515 74	
Expenses of national currency (reimbursable)	188,154 33	196,552 26	12[illegible]
Refunding taxes illegally collected (internal revenue)	309,890 04	56,346 52	13[illegible]
Allowance or drawback (internal revenue)	55,168 92	36,336 40	[illegible]
Repayment of taxes on distilled spirits destroyed by casualty	42 30	318 40	
Marine hospital service	368,395 28	365,292 90	[illegible]
Repayment to importers (excess of deposits)	2,098,805 31	1,361,869 94	1,[illegible]
Debentures or drawbacks	3,127,964 69	3,718,798 15	4,[illegible]
Debentures and other charges	2,409 37	784 63	
Unclaimed merchandise	1,999 96	2,566 76	
Refunding duties under section 26, act of July 14, 1870	522 30	6,998 08	
Support of Soldiers' Home	133,399 65	122,540 98	
Deposits by individuals for surveying public lands	59,022 39	60,058 49	
Prize money to captors		9,289 50	
Navy pension fund		75,800 12	
Naval hospital fund	220 29		
Total expenditures from appropriations proposed to be excepted	104,210,946 91	109,700,642 16	1[illegible]

Net expenditures under excepted classes of Indian appropriations for fiscal years 1877, 1878, *and* 1879.

	1877.	1878.	1879.
For the payment of specific annuities in fulfillment of treaty stipulations. (Appropriations made by Congress)	$805, 264 33	$673, 704 68	$710, 059 61
For payment to Indians becoming citizens the cash value of their proportion of tribal trust-funds and annuities. (Appropriations made by Congress)	34, 568 66	.....	.....
For the payment to Indians the value of lands. (Appropriations made by Congress)	24, 952 03	.....	.....
For the payment to Indians of interest on the proceeds of their lands covered into the Treasury	36, 087 44	36, 087 44	36, 087 44
For the payment for the benefit of Indians of an amount to be charged against their trust-funds. (No payments)	.....	.....	.....
For payment of expenses of removing, &c., Indians, reimbursable from proceeds of their lands. (Appropriations made by Congress)	100, 977 10	30, 844 60	30, 299 82
Funds arising from consolidation of annuities, &c., upon which interest is paid, principal not liable to draft. (No payments)	.....	.....	.....
Interest on such funds	3, 790 22	3, 790 22	3, 790 22
Funds arising from proceeds of lands on which interest is paid, principal not liable to draft. (No payments)	.....	.....	.....
Interest on such funds. (Appropriations made by Congress)	36, 639 52	6, 489 75	82, 707 58
Fund arising from proceeds of lands, not liable to draft, bearing interest, appropriated by Congress. (Expenditures authorized by special acts June 22, 1874, January 12 and March 3, 1877)	57, 566 42	93, 623 87	.....
Fund belonging to North Carolina Cherokees, principal and interest liable to draft	2, 296 90	1, 212 28	1, 780 00
Interest on funds held by the United States in lieu of investment, arising principally from compensation for ceded lands	.....	.....	38, 441 64
Proceeds of sale of Indian lands or reservations for benefit of Indians	32, 892 93	26, 776 19	98, 749 77
Interest on stocks and bonds held by United States Treasurer as custodian	223, 197 12	178, 066 42	174, 083 89
Proceeds of sale or redemption of trust-fund bonds. (No net payments)	.....	.....	.....
Interest on funds created by act of July 12, 1862, on account of abstraction of trust-fund bonds	24, 453 10	13, 872 55	34, 187 73
Maintenance and education of children once Indian captives	375 00	625 00	500 00
Total expenditures	1, 383, 060 77	1, 065, 093 00	1, 210, 687 70
Deduct expenditures under appropriations made by Congress	1, 059, 968 06	804, 662 90	823, 067 01
Total expenditures under permanent or indefinite	323, 092 71	260, 430 10	387, 620 69

The first statement sent to the committee is a letter from the Secretary of the Treasury dated January 28, 1880, addressed to the chairman, with a draft of a bill as a substitute for Senate bill No. 886, and a list of the permanent and indefinite appropriations which the Secretary thought might be changed to annual appropriations; also, a list of those which he thought had best remain as at present, with an addition relative to certain payments to Indians, which your committee think ought to be made a part of this report.

The communication referred to is as follows:

Letter of the Secretary of the Treasury in regard to the repeal of certain permanent and indefinite appropriations.

TREASURY DEPARTMENT,
Washington, D. C., January 28, 1880.

Hon. H. G. DAVIS,
Chairman Committee on Appropriations, U. S. Senate:

SIR: Referring to Senate bill No. 886, for the repeal of certain laws relating to permanent and indefinite appropriations, recently submitted for an expression of my views regarding its provisions, and for a statement of the appropriations which will be affected thereby, I have the honor to state that while the system of annual appropria-

tions which gives to Congress proper supervision of all appropriations and expenditures is undoubtedly correct, its general adoption should not be enforced without allowing sufficient time for a proper consideration of the estimates of amounts required to replace the appropriations to be repealed, especially so as the estimates of the various departments for next year have been already submitted to Congress, and in many cases reported upon by the committees having them in charge.

In view, also, of the inconvenience, if not embarassment, that would for a time atteng this change of system, I would respectfully recommend that the date of repeal be changed to take effect from and after June 30, 1881, which, it is believed, is as early a date as would be wise to adopt for the repeal of so large a class of appropriations.

The following form of bill, which provides for the disposition of such balances as may remain to the credit of these appropriations at the expiration of the period of limitation, is believed to cover more fully all points at issue than the one already introduced, and it is respectfully suggested that it be substituted therefor, viz:

"A BILL to repeal certain laws relating to permanent and indefinite appropriations.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all laws heretofore made for the appropriation of moneys from the general treasury for permanent specific and permanent indefinite objects, except so far as they provide appropriations for the sinking-fund, for payment of interest, premium, or principal of the public debt, or of bonds issued to the Pacific Railroad Companies, or for expenses pertaining to refunding the national debt, not exceeding one-half of one per centum of the bonds authorized by the acts of July 14, 1870, January 20, 1871, and January 14, 1875, be, and the same are hereby, repealed, to take effect from and after June 30, 1881: *Provided*, That nothing in this act shall be construed to interfere with the present requirements of law in relation to the payment of annuities to Indians, or of any moneys received and held in the nature of a trust for a specific purpose, or for excess of duties or taxes paid into the Treasury: *And provided further*, That payment of expenditures which may be properly incurred within one year prior to June 30, 1881, under any of the appropriations affected by this act, may be made at any time within one year after that date, at the expiration of which time any balances remaining unexpended of such appropriations shall be carried to the surplus fund.

"SEC. 2. *And be it further enacted*, That all appropriations hereafter to be made shall remain available for two years, for the payment of expenditures properly incurred within the time for which they are appropriated, except appropriations for the construction of public buildings, rivers and harbors, light-houses, and forts, which shall remain available for a like purpose for a period of four years, at the expiration of which periods all appropriations or balances of appropriations which shall have been upon the books of the Treasury for said periods of two and four years, respectively, shall be carried to the surplus fund; and, with the exception of appropriations for the public debt, the limitations herein placed upon expenditures shall apply to all appropriations now upon the books of the Treasury.

"SEC. 3. *And be it further enacted*, That it shall be the duty of the heads of the several departments of the government to include in their annual estimates to Congress estimates of the amounts required for expenditure under appropriations affected by this act, for the service of the fiscal year eighteen hundred and eighty-two, and annually thereafter.

"SEC. 4. *And be it further enacted*, That all laws or parts of laws inconsistent with the provisions of this act be, and the same are hereby, repealed."

The appended schedule of appropriations which will be affected by the proposed bill, as well as of those excepted from its operations, is as complete in its details as the department has been enabled to make in the limited time allowed for its consideration.

Very respectfully,

JOHN SHERMAN, *Secretary*.

SCHEDULE.

Appropriations affected by the operations of the bill for the proposed repeal of certain laws pertaining to permanent and indefinite appropriations.

Parting and refining bullion—Act August 15, 1876 (19 Stats., 157).
Coinage of the standard silver dollar—Act February 28, 1878 (20 Stats., 25).
International Bimetallic Commission—Act February 28, 1878 (20 Stats., 25).
Payment for land sold for direct taxes—Act May 9, 1872 (17 Stats., 89).
Refunding moneys for lands redeemed—Act March 3, 1865 (13 Stats., 502).

Refunding taxes illegally collected under direct-tax laws—Act February 25, 1867 (14 Stats., 568).
Expenses national loan—Act May 23, 1872 (17 Stats., 156).
Refunding moneys erroneously received and covered—Act July 23, 1866 (14 Stats., 208).
Refunding proceeds of cotton seized—Act May 18, 1872 (17 Stats., 134).
Return of proceeds of captured and abandoned property—Act March 12, 1863 (12 Stats., 820).
Salaries and expenses Southern Claims Commission—Act March 3, 1871 (16 Stats., 525).
Reimbursement to marshals for expenses of taking Ninth Census—Act June 8, 1872 (17 Stats., 340).
Surveying Vigil and St. Vrain private land claims in Colorado—Act February 25, 1869 (15 Stats., 275).
Surveying Nolan private land claim in Colorado—Act July 1, 1870 (16 Stats., 646).
Twenty per cent. additional compensation—Joint resolution February 28, 1867 (14 Stats., 569).
Redemption of stamps—Act June 30, 1864 (13 Stats., 294).
Collecting revenue from customs—Act March 3, 1871 (16 Stats., 521).
Building or purchase of such vessels as may be required for revenue service—Act April 20, 1866 (14 Stats., 40).
Rebuilding and improving life-saving stations—Act June 18, 1878 (20 Stats., 163).
Marine-Hospital Service, proceeds of sales, &c.—Act April 20, 1866 (14 Stats., 40).
Compensation to persons employed in insurrectionary States—Act July 15, 1870 (16 Stats., 310).
Additional compensation to collectors—Act July 7, 1838 (5 Stats., 264).
Refunding duties on goods destroyed (customs)—Act March 28, 1854 (10 Stats., 273).
Drawback on certain articles imported into the district of Chicago (customs)—Act April 5, 1872 (17 Stats., 51).
Arming and equipping the militia—Act April 23, 1808 (2 Stats., 490).
Ordnance material, proceeds of sales—Act March 3, 1875 (18 Stats., 388).
Horses and other property lost in the military service—Act March 3, 1849 (9 Stats., 414).
Bounty to soldiers—Act July 28, 1866 (14 Stats., 322).
Trusses for disabled soldiers—Act May 28, 1872 (17 Stats., 164).
Commutation of rations to prisoners of war in rebel States—Joint resolution, July 25, 1866 (14 Stats., 364).
Rogue River Indian war—Act July 17, 1854 (10 Stats., 307).
Traveling expenses First Michigan Cavalry—Act July 28, 1866 (14 Stats., 322).
Traveling expenses California and Nevada volunteers—Act March 2, 1867 (14 Stats., 487).
Allowance for reduction of wages under eight-hour law—Act May 18, 1872 (17 Stats., 134).
Salaries United States judges, retired—Act April 10, 1869 (16 Stats., 45).
Salaries justices, &c., Supreme Court—Act March 2, 1867 (14 Stats., 471).
Fees of supervisors of elections—Act February 28, 1871 (16 Stats., 438).
Extra pay to officers and men who served in the Mexican war—Act February 19, 1879 (20 Stats., 316).
Sale of small-arms—Act June 20, 1878 (20 Stats., 242).
Indemnity for lost clothing—Act July 4, 1864 (13 Stats., 390).
Relief of certain officers of the Navy—Act January 30, 1875 (18 Stats., 304).
Compensation for loss of personal effects—Act April 6, 1866 (14 Stats., 14).
Relief of sufferers by wreck of the United States steamer Huron—Act December 14, 1877 (20 Stats., 497).
Refunding money for lands erroneously sold—Act January 12, 1825 (4 Stats., 80).
Privateer pension-fund—Act June 26, 1812 (2 Stats., 763).
An act to prevent smuggling and for other purposes—Act July 18, 1866 (14 Stats., 178).
Payment of certain military organizations in Kansas—Act April 12, 1871 (17 Stats., 641).
Sinking-fund for three-sixty-five bonds, District of Columbia—Act March 3, 1879 (20 Stats., 410).
Military contributions in Mexico (War, Navy, and customs)—Act March 3, 1849 (9 Stats., 412).
Compensation to civil superintendents at national armories—Act March 3, 1855 (10 Stats., 638).
Liquidating unadjusted claims, contracts, Tennessee River improvement—Act June 12, 1860 (12 Stats., 29).

Refunding to States expenses incurred in raising volunteers—Act July 17, [illegible] Stats., 264).

Reimbursing Ohio for expenses incurred in enrolling militia—Act March 29, 1867 (15 Stats., 9).

Reimbursing Indiana for expenses incurred in enrolling militia—Act March 29, 1867 (15 Stats., 9).

Relief of widows and orphans of those lost in the brig Epervier—Act March 3, 1817 (3 Stats., 369).

Relief of widows and orphans of those lost in the United States sloop-of-war Albany and brig Porpoise—Act August 1, 1856 (11 Stats., 29).

Relief of Joseph Morehead—Act February 16, 1853 (10 Stats., 756).

Relief of heirs of those lost in the United States steamer Oneida—Act May 18, 1870 (16 Stats., 123).

Bounty for the destruction of enemies' vessels—Act July 17, 1862 (12 Stats., 606).

Civilization of Indians—Act March 3, 1819 (3 Stats., 517).

Unclaimed pensions, Army and Navy—Acts April 6, 1838, and August 23, 1842 (5 Stats., 225 and 521).

Refunding tonnage duties upon Spanish vessels—Act July 13, 1832 (4 Stats., 579).

Refunding duties collected contrary to treaty with Prussia—Act August 30, 1842 (5 Stats., 566).

Refunding duties collected under act of August 30, 1842—Act August 30, 1842 (5 Stats., 566).

Refunding duties paid by colleges, &c.—Act August 12, 1848 (9 Stats., 296).

Refunding duties on foreign imported merchandise—Act August 8, 1846 (9 Stats., 84).

Salaries of special examiners of drugs—Act June 26, 1848 (9 Stats., 238).

Collecting the revenue from customs, fines, penalties, and forfeitures—Act March 3, 1849 (9 Stats., 398-399).

Refunding duties on fish, &c., under reciprocity treaty with Great Britain—Act March 2, 1855 (10 Stats., 633).

Distributive shares, fines, penalties, and forfeitures—Act March 2, 1867 (14 Stats., 546).

Joint resolution respecting quarantine and health laws—Joint resolution May 26, 1866 (14 Stats., 357).

Payment of tax on salaries—Act March 2, 1867 (14 Stats., 480).

Refunding purchase-money, lands sold in Greensburg, La.—Act August 29, 1842 (5 Stats., 540).

Expenses of collecting the revenue from sales of public lands—Act March 3, 1849 (9 Stats., 398).

Debentures and other charges (lands)—Act October 16, 1837 (5 Stats., 207).

Patent fund—Act July 4, 1836 (5 Stats., 121).

Expenses of the courts of the United States—Act March 3, 1791 (1 Stats., 217).

Erecting penitentiaries—Act January 22, 1867 (14 Stats., 377).

Expense of returning fugitives from service or labor—Act February 12, 1793 (1 Sta[illegible] 302).

Incidental and contingent expenses, branch mints—Act January 18, 1837 (5 St[illegible] 139).

Contingent expenses, safekeeping of the public revenues—Act August 6, 18[illegible] Stats., 65).

Contingent expenses, southeast executive building—Act July 20, 1868 (15 S[illegible] 110).

Contingent expenses, House of Representatives, uniforms Capitol police—Act [illegible] 30, 1867 (15 Stats., 12).

Twenty per cent. additional compensation, clerks, House of Representati[illegible] July 28, 1866 (14 Stats., 323).

Twenty per cent. additional compensation, clerks, Commissioner of Publi[illegible] ings—Act July 23, 1866 (14 Stats., 207).

Bureau of Statistics, clerical force—Act July 28, 1866 (14 Stats., 331).

Puget Sound Agricultural Company treaty—Act June 27, 1864, (13 Stats., [illegible]

Salaries and contingent expenses, American and Mexican Commission—A[illegible] 1869 (16 Stats., 7).

Coinage of silver for redemption of fractional currency—Act January 1[illegible] Stats., 296).

Payment of interest on three-sixty-five bonds, District of Columbia, rei[illegible] Act July 31, 1876 (19 Stats., 106).

Salaries and expenses, court of Commissioners Alabama Claims—Act J[illegible] (18 Stats., 248).

Payment to officers and crew of United States steamer Kearsarge—[illegible] 352).

[illegible] agents and clerks, Southern Claims Commissio[illegible]

Two, three, and five per cent. funds of the net proceeds of sales of public lands in States—Act February 20, 1811 (2 Stats., 643).

Indemnity for swamp-lands to States—Act March 2, 1855 (10 Stats., 634).

Protection and improvement of Hot Springs, Ark.—Act March 3, 1877 (19 Stats., 378).

Maryland Institution for Instruction of the Blind—Act February 23, 1865 (13 Stats., 436).

Publishing proclamations relating to sales of lands—Act March 3, 1877 (19 Stats., 357).

Payment for coin, &c., destroyed at Chicago—Act June 10, 1872 (17 Stats., 379).

Relief of certain inhabitants of East Florida—Act June 26, 1844 (6 Stats., 569).

Twenty per cent. additional compensation—Act June 25, 1864 (13 Stats., 160).

Convention between United States and New Granada and Costa Rica—Act February 20, 1861 (12 Stats., 146).

Convention between United States and United States of Colombia—Act February 20, 1861 (12 Stats., 145).

Convention between United States and Ecuador—Act March 28, 1864 (13 Stats., 38).

Expenses of convention with Venezuela—Act July 20, 1867 (15 Stats., 18).

Relief for damages by seizure of vessels in the collection district of San Francisco—Act September 28, 1850 (9 Stats., 509).

Reimbursement to Kansas, expenses incurred for compensation of commissioners—Act February 2, 1871 (16 Stats., 402).

Relief of widows, &c., of those lost in the sloop-of-war Levant—Act July 14, 1861 (12 Stats., 273).

Relief of widows, &c., of those lost in United States ships Cumberland and Congress—Act July 11, 1862 (12 Stats., 531).

Relief of widows, &c., of those lost in United States brig Bainbridge—Act April 19, 1864 (13 Stats., 53).

Relief of widows, &c., of those lost in United States schooner Grampus—Act June 15, 1844 (5 Stats., 665).

Rescue of officers, &c., steamship San Francisco—Act July 26, 1866 (14 Stats., 365).

Appropriations excepted from the operations of the bill for the proposed repeal of certain laws pertaining to permanent and indefinite appropriations.

Sinking fund—Act February 25, 1862 (12 Stats., 346), and subsequent acts.

Interest on the public debt—Act February 9, 1847 (9 Stats., 123).

Interest on Pacific Railroad bonds—Act July 1, 1862 (12 Stats., 492).

Refunding the national debt, not exceeding one-half of one per centum of the bonds authorized by the acts of July 14, 1870, January 20, 1871, and January 14, 1875.

Expenses of Smithsonian Institution, interest on trust fund—Act August 10, 1846 (9 Stats., 102).

Estates of decedents—Act April 14, 1792 (1 Stats., 255).

Outstanding liabilities—Act May 2, 1866 (14 Stats., 41).

Steamboat-Inspection Service—Act February 28, 1871 (16 Stats., 458).

Trust-fund interest for support of free schools in South Carolina—Act March 3, 1875 (17 Stats., 600).

Refunding to national banking associations excess of duty—Act March 2, 1867 (14 Stats., 572).

Expenses of national currency, reimbursable—Act June 20, 1874 (18 Stats., 123).

Refunding taxes illegally collected (internal revenue)—Act June 30, 1864 (13 Stats., 239).

Allowance or drawback (internal revenue)—Act July 1, 1862 (12 Stats., 488).

Repayment of taxes on distilled spirits destroyed by casualty—Act May 27, 1872 (17 Stats., 162).

Marine Hospital Service—Act July 16, 1798 (1 Stats., 605), and subsequent acts.

Repayment to importers, excess of deposits—Act June 30, 1864 (13 Stats., 215).

Debentures or drawbacks—Act March 3, 1849 (9 Stats., 398).

Debentures and other charges—Act October 16, 1837 (5 Stats., 207).

Unclaimed merchandise—Act March 3, 1799 (1 Stats. 670).

Refunding duties under section 26, act July 14, 1870—Act March 3, 1871 (16 Stats., 514).

Refunding proceeds of goods seized and sold—Act April 2, 1844 (5 Stats., 653).

Support of Soldiers' Home—Act March 3, 1851 (9 Stats., 596).

Deposits by individuals for surveying public lands—Act July 1, 1864 (12 Stats., 410).

Prize-money to captors—Act March 3, 1849 (9 Stats., 378), and subsequent acts.

Navy-pension fund—Act April 23, 1800 (2 Stats., 53), and subsequent acts.

Naval-hospital fund—Act March 2, 1799 (1 Stats., 729), and subsequent acts.

In addition to the foregoing, the following classes of appropriations are excepted:

For the payment of specific annuities in fulfillment of treaty stipulations.

For payment to Indians becoming citizens the cash value of their proportion of bal trust-funds and annuities.

For the payment to Indians the value of lands.

For the payment to Indians of interest on procceds of their lands covered into the easury.

For the payment for the benefit of Indians of an amount to be charged against their ust-funds.

For payment of expenses of removing, &c., Indians when the amount appropriated to be reimbursed from proceeds of their lands.

Funds arising from consolidation of annuities and other funds of Indians upon which terest is paid, the principal not liable to draft.

Interest on such funds.

Funds arising from the proceeds of Indian lands on which interest is paid, the principal not liable to draft.

Interest on such funds.

Funds arising from proceeds of lands not liable to draft, the interest on which is propriated by Congress.

Fund belonging to North Carolina Cherokees, principal and interest liable to draft.

Interest on funds held by the United States in lieu of investment, arising principally from compensation for ceded lands.

Proceeds of sale of Indian lands or reservations for benefit of Indians.

Interest on stocks and bonds held by Treasurer United States as custodian.

Proceeds of sale of redemption of trust-fund bonds.

Interest on funds created by act of July 12, 1862, on account of abstraction of trust-nd bonds.

Maintenance and education of children once Indian captives.

The committee thought that a more complete statement of the expenditures made on account of the appropriations referred to for the fiscal ears ending June 30, 1877, 1878, and 1879, would be necessary in order enable Congress to form a correct opinion as to the changes proposed. he Secretary was, therefore, requested to furnish the facts in that regard, which he did as presented in the schedule first set forth in this port.

The committee are of opinion that all the items of appropriations hich the Secretary thought ought to be excepted from the change proosed ought to be embraced, except the following, which, with the expenditures on account of them for the last three fiscal years, are set rth in the following table:

ible showing the permanent and indefinite appropriations excepted by the Committee on Appropriations, together with the expenditures under same, for fiscal years 1877, 1878, *and* 1879.

Title of appropriation.	1877.	1878.	1879.
terest on the public debt	$93, 234, 253 05	$98, 621, 903 93	$101, 453, 118 28
terest on Pacific railroad bonds	3, 890, 258 53	3, 878, 970 72	3, 874, 830 72
funding the national debt	489, 740 86	919, 124 03	1, 915, 995 11
penses of the Smithsonian Institution, interest on rust fund	39, 060 00	40, 841 00	39, 060 00
funding taxes illegally collected (internal revenue)	309, 890 04	56, 346 52	135, 191 71
lowance or drawback (internal revenue)	55, 168 92	36, 336 40	57, 066 17
arine Hospital service	368, 395 28	365, 292 90	375, 164 01
payment to importers excess of deposits (customs)	2, 098, 805 31	1, 361, 869 94	1, 782, 225 97
bentures or drawbacks (customs)	3, 127, 964 69	3, 718, 798 15	4, 928, 179 92
bentures and other charges (customs)	2, 409 37	784 63	2, 521 49
claimed merchandise (customs)	1, 999 96	2, 566 76	761 26
pport of Soldiers' Home	133, 399 65	122, 540 98	109, 853 56
avy-pension fund	.....	75, 800 12	.....
Total	103, 751, 345 66	109, 201, 176 08	114, 673, 968 29

It will be observed that the Secretary has not stated the amount xpended on account of the sinking-fund for the years referred to, but we agree that the surplus revenue which alone is applied for that

purpose ought to continue to be held as it now is, the failure to state the amount is not material.

The committee are of opinion that it is better, wherever the public service will not suffer thereby, for all appropriations of public money to pass annually under the supervision of Congress upon regular estimates furnished by the departments, and after careful consideration have concluded that all the appropriations which the Secretary thought ought to be excepted from the operation of the bill can be annually provided for, except as set forth in the table last referred to, and the bill herewith submitted for the consideration of the Senate.

In regard to the Indian matters, it will be seen by the schedule of expenditures above set forth that out of $1,210,687.70, paid during the last fiscal year, $823,067.01 is now paid by annual appropriations made by Congress, and $387,620.69 is paid out of permanent or indefinite appropriations. The committee see no good reason why all these payments may not as well be made in the same manner, and, as much the greater part is now annually provided for, recommend that all shall be, and thus have uniformity in the mode of appropriation and payment.

While the committee desired that the proposed law should go into operation at the close of the present fiscal year, the suggestions made by the Secretary that it would require considerable time to prepare for the change of system and to prepare careful estimates as to the requirements of the service relative to these matters, we have determined to report in conformity with the views of the Secretary, that the act shall take effect from and after June 30, 1881.

This bill is a substitute for bill S. 886:

A BILL to repeal certain laws relating to permanent and indefinite appropriations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all laws heretofore made for the appropriation of moneys from the general treasury for permanent specific and permanent indefinite objects, except so far as they provide appropriations for the sinking-fund, for payment of interest, premium, or principal of the public debt, or of bonds issued to the Pacific Railroad Companies, or for expenses pertaining to refunding the national debt, not exceeding one-half of one per centum of the bonds authorized by the acts of July 14, 1870, January 20, 1871, and January 14, 1875, for expenses of the Smithsonian Institution (interest on trust-fund), for refunding taxes illegally collected, and for payment of allowance or drawback under the internal-revenue laws, for expenses of the marine-hospital service, for repayment to importers excess of deposits, for payment of debentures or drawbacks, bounties, and allowances, for payment of debentures and other charges, and for refunding proceeds of unclaimed merchandise under the customs-revenue laws, for support of the Soldiers' Home, and for the Navy-pension fund, be, and the same are hereby, repealed, to take effect from and after June 30, 1881: *Provided*, That payment of expenditures which may be properly incurred within one year prior to June 30, 1881, under any of the appropriations affected by this act, may be made at any time within one year after that date, at the expiration of which time any balances remaining unexpended of such appropriations shall be carried to the surplus fund.

SEC. 2. That all appropriations hereafter to be made shall remain available for two years, for the payment of expenditures properly incurred within the time for which they are appropriated, except appropriations for the construction of public buildings, rivers and harbors, light-houses, and forts, which shall remain available for a like purpose for a period of four years, at the expiration of which periods all appropriations or balances of appropriations which shall have been upon the books of the Treasury for said periods of two and four years, respectively, shall be carried to the surplus fund; and, with the exception of appropriations for the public debt, the limitations herein placed upon expenditures shall apply to all appropriations now upon the books of the Treasury.

SEC. 3. That it shall be the duty of the heads of the several departments of the government to include in their annual estimates to Congress estimates of the amounts required for expenditure under appropriations affected by this act, for the service of the fiscal year eighteen hundred and eighty-two, and annually thereafter.

SEC. 4. That all laws or parts of laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

Table showing the total of expenditures under permanent and indefinite appropriations f fiscal years 1877, 1878, *and* 1879; *the expenditures under appropriations not repeal bill of committee, including interest on the public debt and Pacific railroad bonds, a cluding said interest, and the expenditures under appropriations proposed to be repeal*

Year.	Total expenditures.	Expenditures under appropriations not to be repealed, including interest.	Expenditures under appropriations not to be repealed, excluding interest.	Expend under priation be repe
1877	$113, 778, 013 76	$103, 751, 345 66	$6, 626, 834 08	$10, 026,
1878	117, 886, 211 53	109, 201, 176 08	6, 700, 301 43	8, 685,
1879	123, 124, 277 78	114, 673, 968 20	9, 346, 019 20	8, 450,

46TH CONGRESS, 2d Session. } SENATE. { REPORT No. 335.

IN THE SENATE OF THE UNITED STATES.

MARCH 5, 1880.—Ordered to be printed.

Mr. BALDWIN, from the Committee on Commerce, submitted the following

REPORT:

[To accompany bill H. R. 2006.]

The bill (H. R. 2006) referred to the Committee on Commerce re-enacts substantially the existing provisions of law, but contains a proviso that neat cattle may be imported from any portion of Great Britain into the United States for breeding purposes, under such restrictions as the Secretary of the Treasury may establish for inspection and examination of such cattle. If such cattle shall be found free from contagious or infectious disease, they shall be permitted to be landed and taken to their place of destination.

The instructions of the department now in force require a quarantine of not less than ninety days, in order to determine whether the cattle are free from contagious or infectious disease. It is well understood that these diseases, as a rule, in their earlier stage cannot be discovered by a mere inspection or examination; it requires at least ninety days from its inception before it makes its appearance in a tangible form. If the object of this bill is to compel the officers of the customs to allow the delivery of the cattle upon a cursory examination, the amendment would defeat the whole object for which the law was passed. If the purpose of the amendment is to require such detention as may be sufficient to satisfy the customs officers as to the existence of disease, the existing regulations fully meet that point.

The committee, for the reasons above stated, report the bill back to the Senate adversely, and recommend that it be indefinitely postponed.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 336.

IN THE SENATE OF THE UNITED STATES.

MARCH 5, 1880.—Ordered to be printed.

Mr. MAXEY, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill S. 1209.]

The Committee on Post-Offices and Post-Roads, to whom was referred bill S. 1209, having had the same under consideration, submit the following report thereon:

The committee in investigating the subject-matter of this bill have made a thorough examination of the present classification, duty, and pay of railway postal employés; have had the views of the Postmaster-General and of the Superintendent of the Railway Mail Service, and have made a careful comparison of the present system with that proposed by the bill under consideration.

The present classification and pay are best shown by the sections of the Revised Statutes on the subject and the statement furnished by the Superintendent of the Railway Mail Service:

RAILWAY POST-OFFICE CLERKS.

The Postmaster-General may appoint clerks for the purpose of assorting and distributing the mail in railway post-offices, each of whom shall be paid out of the appropriation for transportation of the mail a salary at the rate of not more than one thousand four hundred dollars a year each to the head clerks, nor more than one thousand two hundred dollars a year each to the other clerks. (Postal Laws and Regulations, § 23; Revised Statutes, ¶ 4025.)

Previous to the commencement of the fiscal year ending June 30, 1877, the salaries of the railway post-office clerks were $1,000, $1,200, and $1,400 per annum. Those receiving $1,000 were graded as assistant clerks; $1,200, clerks; and $1,400, head clerks. At the time above specified head clerks were reduced to $1,300 per annum, and clerks to $1,150 per annum, which rate of pay is in force at the present time.

Since June 30, 1878, all appointments of assistant clerks have been made at the rate of $900 per annum, the appropriations making these changes necessary.

ROUTE-AGENTS.

The Postmaster-General may employ as many route-agents as may be necessary for the prompt and safe transportation of the mail, each of whom shall be paid out of the appropriation for transportation of the mail a salary at the rate of not less than nine hundred nor more than one thousand two hundred dollars a year each. (Postal Laws and Regulations, § 22; Revised Statutes, ¶ 4024.)

My predecessor stated in his annual report for the year ending June 30, 1877, that the average salary of a railway post-office clerk was $1,160 per annum. I find upon examination that the average salary of our present force is $1,146, being an average reduction of $14. This has been rendered necessary by reason of the extension of the service and the great increase in the mail, which has been greater since July 1, 1879, to the present time than ever before in the history of the railway mail service.

Average salaries per annum.

Railway post-office clerks	$1,146
Route-agents	910
Mail-route messengers	580
Local agents	821

That, as the department is now organized, a change is needed in the present system is shown by the following extracts from the report of the Postmaster-General for 1879, page 16.

CLASSIFICATION OF EMPLOYÉS OF THE RAILWAY MAIL SERVICE.

I most earnestly renew my recommendation of last year for the reclassification of the employés of the railway mail service, as advised by the general superintendent of that service. No additional expense will be incurred, but the business of the department will be greatly facilitated and much annoyance will be spared to the appointment office which is now caused by the necessity of transferring employés from one class to another in order to avoid exceeding the appropriation. The railway mail service is the most important branch of the postal system. Under a judicious system of appointments and a tenure of office dependent upon merit alone, its efficiency has developed so that the enormous amount of 2,648,661,550 pieces of mail-matter were distributed by it during the past year with only one mistake in the disposition of each 3,469 pieces. The work performed by all the employés is the same, *varying only in amount*, and yet under the present mode of appropriating for postal clerks, route-agents, mail-route messengers, and local agents, *two men working in the same car and performing the same service frequently receive a different salary* simply because one is paid out of the appropriation for route-agents and the other out of that for postal clerks. This is the greatest evil now existing in the service, and it can be completely remedied by the classification of the employés as recommended.

In fact the present classification appears to have been made when the various designations now in use did in some measure indicate the nature of, and difference in, the employments, and with little reference to anything else; but now that the work is all of one kind, the only difference being in the amount performed, the committee believe that a classification more flexible in its nature and possessing more features of benefit to the service should be adopted.

They quote upon this point from the report of the Superintendent of the Railway Mail Service. (Rep. P. M. Gen'l, p. 220, for 1879.)

The question of a change in the classification was discussed last year.

Now that the service is brought under one general management, and each employé is required to work under the same general instructions and schemes, *the only distinction in fact being the quantity of work*, it seems that distinctions obsolete in practice should be abandoned. The clerks could be more uniformly graded, avoiding the dissatisfaction that now arises from the distinction in designation and pay where there is none in the work. It would, therefore, be better for the service, and prove more economical, should the appropriation be made in gross for these five classes, designating them as postal clerks, and allowing, say, five classes, whose salaries shall not exceed the following rates per annum: First class, $800; second class, $900; third class, $1,000; fourth class, $1,200; and fifth class, $1,400. If this recommendation is adopted, the first, second, and third classes would be employed on the lighter and shorter lines. The fourth and fifth classes, where railway post-office cars are required. The reclassification and making the appropriation in gross will in no way increase the expenditure.

And also from his more recent statements to the committee in connection with the pending bill:

I would advise that all probationary appointments be made at $800 per annum, if the average daily run is 80 miles per day. If at the expiration of the probationary period they are found worthy of a full appointment they should be advanced to $900 per annum, if they run 90 miles or more and less than 100. However, on such lines as do not employ railway post-office cars, even though they run a daily average of 125 or 130 miles, the salary should not be further advanced. Making the probationary appointment at $800 per annum with prospective promotion will be an incentive to the clerks to become efficient. Besides, $800 per annum is all that a new man can earn for the first six months. On lines that now employ railway post-office cars no

clerk should have his salary advanced unless he has a record to warrant the same and there is a vacancy in the ranks to which he can be assigned. Nine hundred dollars per annum should be paid for a daily average of 90 miles, and $1,000 per annum for a daily average of 100 miles. One thousand dollars per annum is all that should be paid except on lines that employ railway post-office cars.

This method of paying the clerks will make all eligible to promotion and be more just.

Clerks that perform less than 100 and more than 90 miles per day should be paid $900 per annum. Clerks that perform less than 90 and more than 80 miles per day should be paid $800 per annum. Clerks that perform less than 80 miles per day should be paid ten dollars per mile per annum, viz: 70 miles, $700; 60 miles, $600; and so on decreasing. Promotions to be made to the railway post-office cars from the shorter lines, when the men are competent, and appointments made to the shorter lines. A daily run of 100 miles is all that a man should be required to perform, yet those who run alternate round trips or weeks can safely run 125 or 130 miles per day. By this classification the fourth and fifth classes should only be employed when railway post-office cars are used.

LOCAL AGENTS.

Local agents should be paid according to the importance of the transfer and the amount of work performed, which is the case at the present time.

The estimate for the fiscal year ending June 30, 1881, is as follows:

Railway post-office clerks	$1,450,000
Route-agents	1,225,000
Mail-route messengers	200,000
Local agents	150,000

The appropriation for the fiscal year ending June 30, 1880, is as follows:

Railway post-office clerks	$1,350,000
Route-agents	1,125,000
Mail-route messengers	175,000
Local agents	120,000

MAIL-ROUTE MESSENGERS AND LOCAL AGENTS.

Authority for the appointment of these employés is found in the various appropriation bills, there being no specific law on the subject. Mail-route messengers are now paid according to the number of miles run, the same as is recommended in the case of clerks drawing a salary of less than $800 per annum.

The present system, with four classes of employés, is very complex, and the proposed classification will do away with all intricacy, as well as avoid not a little jealousy on the part of employés. A railway post-office clerk, doing a higher grade of work but receiving a lower salary than a route-agent, cannot but feel that an injustice is done him. This classification will place all on the same footing and arrange the pay according to the service performed and miles run.

The railway mail service lines are the great arteries of the postal system, distributing from and gathering to the great commercial centers their varied and valuable correspondence with the country at large.

Any awkwardness or defect in the organization of the service is felt throughout the circuit, cripples the entire postal system, and works damage to its patrons, the people.

That the present system of classifying the employés is defective and unsatisfactory, that it is not in rank with the perfection attained by the other branches, is testified to by those most competent to judge; those who have built up the railway mail service and controlled and directed its workings.

There are no harder-worked employés of this government than those in the railway postal service; they have to be men of intelligence; their duties are a combination of those of every other postal employé; they are brought in direct contact with, and are compelled to thoroughly comprehend, the entire postal system. The amount of work performed on the rail is enormous, and it must be done in a limited time, and at night as well as day; how well they do this work is evinced by the fact

that during the last fiscal year the force of 2,609 men distributed 2,648,661,550 pieces of mail with but one error in every 3,469 pieces. They are debarred from engaging in any other business, their whole time being demanded either for actual duty or for the acquisition of the varied knowledge they are required to possess. (Postal Rules, sec. 763.) They are constantly exposed to loss of life and limb, as evidenced by the fact that during the last fiscal year there were 35 accidents to mail trains, 4 employés killed, and 21 injured.

In view of all these facts, the committee believe that such organization should be adopted as will establish regular classes, and enable the Postmaster-General to grade the members of the different classes by the amount of labor performed and responsibility incurred.

The committee believe that the present bill will do this; that it will give the employés the chance, by application and merit, of winning promotion from one grade or class to another, as new service or vacancies may give opportunity; that it will give the Postmaster-General the power, by smooth and graduated promotion, to recognize such application and merit, to meet the varying needs of the service and to add to its *morale* and efficiency.

The proposed change in the law will not add anything to the expenses of the government; it will only enable the department to pay the employés in this branch of the service out of the appropriations that may be made, by the amount of labor actually done rather than by a now obsolete class arrangement.

Wherefore the committee do recommend that Senate bill 1209, as amended, do pass.

○

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 337.

IN THE SENATE OF THE UNITED STATES.

MARCH 5, 1880.—Ordered to be printed.

Mr. PLATT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1235.]

The Committee on Pensions, to whom was referred the bill (S. 1235) granting a pension to Susan Smallwood, widow of William Smallwood, having considered the same, respectfully report:

William J. Smallwood, first lieutenant Company A, Seventh Kentucky Volunteers, was wounded in the leg October 2, 1862, in consequence of which his leg was amputated between the knee and ankle. He was pensioned, and died of apoplexy March 23, 1875. An application for a pension, made by his widow, was rejected June 30, 1876, on the ground that the fatal disease was not the result of loss of leg or due to his service in the Army. The only evidence upon which it is sought to trace the cause of his death to the amputation of the soldier's leg is that of his family physician, who says he attended him since his leg was amputated, that there were frequent symptoms of paralysis, and that he discovered a tendency to slight attacks of apoplexy, and that in his opinion the fatal attack was due to the derangement of the arterial system caused by the amputation.

The committee are of opinion that the rejection was proper, and recommend that the bill be indefinitely postponed.

O

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 338.

IN THE SENATE OF THE UNITED STATES.

MARCH 5, 1880.—Ordered to be printed.

Mr. PLATT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1360.]

The Committee on Pensions, to whom was referred the petition of Hon. G. B. Thomas and numerous other citizens of Howell County, Missouri, praying that a pension may be granted Aaron Hatcher; also Senate bill 1360, *granting a pension to said Aaron Hatcher, beg leave to report:*

Said Aaron Hatcher was a private in Company F, Twenty-third Regiment, Missouri Volunteers. In an application to the Pension Bureau, filed January 10, 1872, he alleged that he contracted disease of the eyes at Rolla, Mo., in the year 1863. He was discharged in April, 1864, for disease of the eyes, which has proved incurable, and he is now almost totally blind. His application was rejected solely upon the certificate of the assistant regimental surgeon indorsed on his discharge that he "had suffered from impaired vision for nearly nine years." It was subsequently again considered, and finally rejected March 26, 1878. To show that the disease was contracted in service and in the line of his duty, there is his captain's certificate of discharge that soldier's disease "has been contracted since date of enlistment, to the best of my knowledge." An affidavit of the captain states that he "recruited the soldier, at which time he was to all appearances a sound man." Two physicians of good standing state in the most unequivocal manner that soldier's eyes were sound prior to enlistment. Two neighbors testify to soldier's soundness prior to enlistment.

The petition referred to the committee is signed by a very large number of soldiers, neighbors, and acquaintances, who state their belief to be that he was a sound man when he entered the service.

In view of all the evidence, the committee are of opinion that claimant's disease was contracted in service and in the line of duty, and therefore recommend the passage of the bill.

46TH CONGRESS, 2d Session. | SENATE. | REPORT No. 339.

IN THE SENATE OF THE UNITED STATES.

MARCH 5, 1880.—Ordered to be printed.

Mr. FARLEY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 358.]

The Committee on Pensions, to whom was referred the bill (S. 358) granting a pension to Nelson Roosevelt, father of Nelson J. Roosevelt, beg leave to report as follows:

It appears from the statements made in this case that Nelson J. Roosevelt was, at the time of his alleged death, a deserter from the Second Minnesota Volunteers, and the claim was, therefore, rejected by the Commissioner of Pensions, as appears from his letter dated May 15, 1878, on the ground that the soldier violated the twenty-second article of war by deserting from one organization and entering another, and was, therefore, never afterwards in the line of duty. Your committee, therefore, recommend that the bill do not pass.

O

IN THE SENATE OF THE UNITED STATES.

MARCH 5, 1880.—Ordered to be printed.

GROOME, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 748.]

Committee on Pensions, to whom was referred the bill (S. 748) granting a pension to Thomas E. Brawner, report:

'hat Thomas E. Brawner was mustered into service as first lieu-
ant of Company F, Twenty-third Missouri Volunteers, on November
1861, and continued to serve as such until April 6, 1862, when he
captured at the battle of Pittsburg Landing, and confined for
ut seven months, first at Montgomery, Ala., and afterwards at Mad-
, Ga. Upon his return to his regiment in November, 1862, he com-
ined of being much broken in health from exposure and alleged harsh
atment while he was a prisoner of war. Two captains of companies
aid regiment and several privates who were taken prisoners in the
e battle, and confined in the same prisons with him for the same
iod, testify that he was a sound man when he entered the service,
. that while in prison he contracted the disease of rheumatism to such
extent as to disable him from active service after he was exchanged.
l another captain of a company in that regiment and the colonel of
regiment testify that Lieutenant Brawner was taken prisoner at the
tle of Pittsburg Landing, and that up to that time he was in sound
lth, and that when he returned to his regiment in November, 1862,
complained that his health was much broken as a result of his im-
onment. On December 22, 1862, his resignation having been ten-
ed, was accepted, and he was honorably discharged from the service.
colonel testifies that he "was a good officer, soldier, and a gentle-
n, and as such his standing was equal to the best," and that, to the
t of his recollection, his resignation was tendered because of the dis-
lity already indicated. The "special orders" of the Department of
Missouri state that he was honorably discharged, "having for good
se tendered" his resignation.
His family physician testifies that he was sound when he entered the
ny; and that ever since his return he has been suffering from rheu-
tism, contracted by exposure while in the Army, and of so aggravated
haracter that it brought on spinal irritation, resulting in epileptic
vulsions, which disqualify him for manual labor. There is the testi-
ny of another physician that he was in sound health when he enlisted;
l the testimony of still another that he knows he was suffering from
umatism and epilepsy for three years before he made his application
a pension; and that his disease was not aggravated or prolonged by

intemperate or other bad habits. There is no evidence that he had any epileptic fits before 1869.

The examining surgeon who, by direction of the Pension Bureau, examined him on September 3, 1873, found him suffering from a chronic form of nervous rheumatism, and from hemorrhoidal humors, and expresses the opinion that his epilepsy is probably owing to his general derangement of health. He also declares that his disability, which he rates at one-half, is permanent, and expresses the belief that it did originate in the service in the line of duty.

When Lieutenant Brawner made his application for a pension the postmaster of his town wrote to the then Commisssioner of Pensions, "in confidence," that said Brawner was "a Democrat*ed* editor of a dirty newspaper" published there, and "that his application is a grand swin*de* on the gover*n*ent."

This led to a special agent being sent to the town, who examined the postmaster and several other persons, among whom were two who had been officers and one who had been a private in the same regiment with Brawner. The persons above designated testified that Brawner was in good health when discharged from the Army, and some of them that he was still so. There was also some testimony tending to show that he has been considerably addicted to the use of ardent spirits, especially from 1867 to 1869, and some of the witnesses ventured the opinion that his attacks of epilepsy were attributable to the use of such spirits.

The special agent, when making his report upon Lieutenant Brawner's case to the Commissioner of Pensions, declared that—we quote his exact language—"The evidence now on file substantiating his claim is, in my opinion, gotten up by a, or among a, cli*ck* (all Democrats), and some of them having been in rebel army." This agent announced as the conclusion which he had reached that Lieutenant Brawner's disability did not originate in the service, but since his discharge, and that his attacks of epilepsy were caused by excessive drinking, and hence he recommended that his claim be not allowed. The claim was accordingly rejected.

The committee, after a full and careful review of the whole case, are not entirely satisfied that Lieutenant Brawner's present disability is directly traceable to the service, but they consider the testimony adduced on his behalf to establish that point sufficient to resolve any doubt they may entertain in regard thereto in his favor, and hence they recommend the passage of the bill for his relief.

○